

Name: Danny Williams  
 Student ID: 00001596647  
 Birthdate :

Print Date: 6/10/23

Cum GPA 3.283 Cum Totals 44.000 44.000 128.040

Spring 2023

Program: Law - Full-time Division

Course	Description	Attempted	Earned	Grade	Points
LAW 236	Entertainment and Sports Law	2.000	2.000	B+	6.660
LAW 372	Intl Law and Practice	3.000	3.000	A	12.000
LAW 389	Pub Int Law Seminar	2.000	2.000	A	8.000
LAW 414	Professional Responsibility	3.000	3.000	B-	8.010
LAW 597	Use of Force in Intl&Dom Law	2.000	2.000	A-	7.340
LAW 599	Extern Intensive Fld Placement	3.000	3.000	P	0.000
Topic:	Judicial				
Term GPA	3.501 Term Totals	15.000	15.000		42.010
Cum GPA	3.334 Cum Totals	59.000	59.000		170.050

Fall 2023

Program: Law - Full-time Division

Course	Description	Attempted	Earned	Grade	Points
LAW 184	Advanced Litigation Skills	2.000	0.000		0.000
LAW 208	Advanced Criminal Law	2.000	0.000		0.000
LAW 276	Criminal Law Practicum	1.000	0.000		0.000
LAW 276	Criminal Law Practicum	1.000	0.000		0.000
LAW 350	Land Use	2.000	0.000		0.000
LAW 387	Intl Environmental Law	3.000	0.000		0.000
LAW 399	Finan Wellness for New Lawyers	1.000	0.000		0.000
LAW 549	Antitrust & Intel Prop Sem	2.000	0.000		0.000
LAW 683	Leg Issues in Schl Discipline	2.000	0.000		0.000
Term GPA	0.000 Term Totals	16.000	0.000		0.000
Cum GPA	3.334 Cum Totals	75.000	59.000		170.050
Law Career Totals					
Cum GPA:	3.334 Cum Totals	75.000	59.000		170.050

End of Loyola Unofficial Transcript

June 14, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to enthusiastically recommend Danny Williams for a judicial clerkship.

I have known Danny since he started law school. He was a student in my Civil Procedure class during his first semester of law school and was also in a seminar with me the Spring of his 1L year. In both classes Danny was an engaged student who responded well to constructive feedback. In the seminar class, he had the highest grade for a major assignment based on several smaller assignments even though he did not always achieve a similar level of performance on prior assignments. However, he obviously was able to internalize my prior feedback to excel.

I know that Danny is very interested in serving as a judicial clerk. He is one of the few students I have seen in over twenty years of teaching to consistently demonstrate an interest in the judicial system by completing two federal judicial externships

Danny is a personable student who is interested in helping others and working with others. He works well with students in classes and is supportive of his classmates outside of class as well. Given all of these reasons, I have recommended that he serve as a tour guide for the Admissions office.

For all the foregoing reasons, I recommend Danny to you as a judicial clerk. If you have any questions, or if I can be of any further assistance, please feel free to contact me at the above address or by e-mail at [cho@luc.edu](mailto:cho@luc.edu).

Sincerely,

**Cynthia Ho /s/**

Cynthia M. Ho

Clifford E. Vickrey Research Professor of Law

Cynthia Ho - [cho@luc.edu](mailto:cho@luc.edu) - 312-915-7148

June 14, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write this letter in support of Danny Williams' application for a judicial clerkship with your chambers. Danny has demonstrated a strong commitment to federal government service. As a former judicial law clerk, I believe that Danny has the qualities that will make him successful as law clerk. He is communicative, receptive to feedback, and eager to learn.

I know Danny in my role as the Assistant Dean of Career Services and as an adjunct professor for the Public Interest Law Seminar, a course in which Danny completed in Spring 2023. Danny has impressed me with his professionalism, thoughtful contributions in our course, and dedication to public service. In the Public Interest Law Seminar, we cover a variety of topics that are multi-faceted. Danny has maintained a professional and logical view in his comments and his perspective adds a depth and richness to our class discussions. Danny completed a paper analyzing the impacts of de jure and de facto discrimination in various communities, including Chicago.

Danny was also one of two students recently selected to represent Loyola at the ABA Judicial Conference and asked to provide a report to the faculty Judicial Clerkship Committee. Danny provided a very thoughtful review of the experience and actionable feedback for the committee moving forward.

As you can see from Danny's resume, he has dedicated much of his time to gaining experience within the federal court. I believe this experience working in chambers will enable Danny to meaningfully and efficiently contribute to your chambers. Please do not hesitate to contact me if you need any additional information.

Very truly yours,

Maureen Kieffer  
Assistant Dean of Career Services and Adjunct Professor  
Loyola University Chicago School of Law

Maureen Kieffer - [mkieffer1@luc.edu](mailto:mkieffer1@luc.edu)

June 14, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to enthusiastically recommend Danny C. Williams Jr. for a federal judicial clerkship in your esteemed court. Having had the privilege of closely working with Danny during his internship in my Chambers, I can confidently attest to his exceptional skills, unwavering work ethic, and outstanding potential as a judicial clerk.

Danny is currently a third-year law student at Loyola University Chicago School of Law, where he has consistently demonstrated remarkable academic prowess. His dedication to his studies and commitment to excellence have earned him a place on the Dean's list throughout his time at the institution. It is evident that Danny possesses a sharp legal mind and a strong ability to comprehend complex legal concepts.

During his internship with the esteemed law firm Sherwood McCormick and Robert, Danny had the opportunity to engage in a wide range of litigation matters. His experience in this environment has provided him with invaluable exposure to estate planning and non-profit clients, further enhancing his understanding of diverse legal areas. Danny's hands-on involvement in various aspects of litigation has honed his research, analytical, and problem-solving skills, which are critical for a successful judicial clerk.

Moreover, Danny's internship in my chambers demonstrated his exceptional work ethic and ability to handle multiple responsibilities effectively. As a vital member of my team, Danny diligently assisted the Court with essential case law research, ensuring the availability of necessary legal references to support informed decisions. His strong attention to detail and organizational skills were instrumental in maintaining the docket and managing various tasks efficiently. Danny consistently displayed professionalism, reliability, and a deep respect for the judicial process, making him an exemplary candidate for a judicial clerkship.

Beyond his legal acumen and impressive academic record, Danny brings a unique set of skills and experiences acquired during his time as a student-athlete and his professional tenure at ExxonMobil. As a former student-athlete, Danny has developed the ability to work collaboratively in teams, communicate effectively, and meet strict deadlines while balancing multiple commitments. His three-year tenure at ExxonMobil has further instilled in him a strong work ethic, emphasizing the importance of attention to detail, adaptability, and perseverance in achieving exceptional results.

Given Danny's exceptional academic achievements, legal experience, and outstanding personal qualities, I am confident that he possesses the necessary qualities to excel in a judicial clerkship. His sharp intellect, keen legal insight, and dedication to justice make him an ideal candidate to contribute significantly to the work of your Court. Danny's strong work ethic, organizational skills, and ability to work effectively under pressure will undoubtedly enable him to fulfill the demanding responsibilities of a judicial clerk.

I wholeheartedly recommend Danny C. Williams Jr. for a federal judicial clerkship in your Court. If you require any further information or have any questions regarding his candidacy, please do not hesitate to contact me directly. I believe that Danny's exceptional abilities, unwavering dedication, and unique skill set make him an outstanding choice for this prestigious position.

Thank you for considering Danny's application. I appreciate your time and attention to this matter.

Sincerely,

**Judge Sharon Holmes**

District Court Judge  
Tulsa County District Court

Sharon Holmes - Sharon.Holmes@oscn.net

IN THE SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION B – FAMILY PART

SAM CARSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. FV 21-123097
	)	
BRETT MORGAN,	)	
	)	
Defendant.	)	

**MEMORANDUM OF LAW IN OPPOSITION  
TO DEFENDANT'S MOTION TO DISMISS**

NOW COMES Plaintiff, SAM CARSON, and files this Memorandum of Law in  
Opposition to Defendant's Motion to Dismiss:

**Preliminary Statement**

On December 14, 2021, the Plaintiff obtained a Temporary Restraining Order against Defendant, after a physical altercation where Defendant shoved Plaintiff. This altercation was preceded by multiple non-physical disputes between the parties. At the time of the incident Plaintiff and Defendant are roommates that reside in the same domicile. At the conclusion of the uncontested testimonies by the parties, the defense counsel moved to dismiss this case, arguing that the Plaintiff did not qualify as a victim under New Jersey's Prevention of Domestic Violence Act. The Court has already found that Defendant's conduct was violence under the Act and ordered briefs on the issue of subject matter jurisdiction. The Plaintiff is opposing the motion and seeking to obtain a Final Restraining Order against the Defendant.

**Statement of the Issue**

Whether two law students, Sam Carson, and Brett Morgan, were household members for four months when repeated verbal altercations led to a physical confrontation between the two regarding the home that they shared.

**Statement of the Facts**

On December 14, 2021, police responded to a domestic violence call at the residence located at 5150 Tremolo Street, Vorhees, New Jersey. R. at 1. Plaintiff, Sam Carson, and Defendant, Brett Morgan, were involved in a physical altercation in their living room, where Brett shoved Sam to the ground causing injury to his head. R. at 3-4. Sam's mobility was limited for a week due to his injuries. R. at 4. Sam, shaken up by the altercation, decided to call the police. R. at 4. The officer that responded to the scene advised Sam to get a restraining order. R. at 4. Sam in that moment, feeling unsafe in his home with Brett present, decided to obtain a restraining order. R. at 4. In his statement, Sam told police he was assaulted by Brett. R. at 4, 13. However, this is not the first act of aggression by Brett. R. at 4. Brett also made threats stating he would "teach him a lesson" after becoming angered by the dismissal of one of his football stories. R. at 4. Sam testified he "really thought he was going to hit me that night." R. at 4.

Moreover, in November, after Sam loaned class notes to Brett, he made similar threats to their mutual friends stating that he would burn Sam's notes after Sam requested the notes be returned. R. at 5. The notes were returned in good condition. R. at 5. Brett took Sam's noise-cancellation headphones without his permission and subsequently lost them at the law library. R. at 3. Furthermore, on the night of the incident just before Brett shoved Sam, he yelled he would replace the "stupid" headphones because he had grown tired of Sam asking about them. R. at 3-4. However, the headphones were not replaced. R. at 3-4. Brett would often blast loud music,

purportedly to aid his studying, but which would drive Sam out of his own home. R. at 3, 13.

Moreover, Sam further testified that Brett would in fact assert control over the common areas of the home, such as the living room, where the roommates each had a designated study area. R. at 4. The altercation between Sam and Brett stemmed from Sam confronting Brett about his loud music and being late on two rent payments. R. at 3.

The month-to-month residential lease that Sam drafted, and Brett signed, stipulated that the amount of \$950 be paid before the fifteenth day of every month of the lease term. R. at 15. The lease could be terminated by either Sam or Brett. R. at 15. The facts indicate and Brett's testimony confirmed that he had been four and three days late respectfully on two rental payments—each time he paid a \$25 dollar a day late fee totaling \$175. R. at 3, 8. Sam owns the home that all three of the roommates live in. R. at 8. Each person had their own room with a lock, but Sam's room was the largest and included a private bathroom. R. at 2. Nick and Brett shared one. R. at 2. Furthermore, the living room was primarily a study area for the household—each person had their own desk partitioned for privacy. R. at 2. They all shared a kitchen and would on occasion split takeout meals together, but mostly had their own groceries that they paid for separately. R. at 2-3. Moreover, they split responsibility of maintaining the home by cleaning and washing their own dishes and laundry. R. at 2. However, they did share some responsibilities such as purchasing paper for their shared printer. R. at 2.

To afford the maintenance and taxes, Sam testified that he had to rent out the extra bedrooms in the home. R. at 2. Moreover, Sam advertised the rooms exclusively to his classmates and posted it in the law school Facebook page, Brett was not the first option. R. at 5. Their other roommate, Nick Coleman, also testified that the roommates did not speak to each other much outside of their classwork due to their staggered schedules. R. at 7. Nick also

testified that a mutual classmate, Melanie Davis, currently lives with them. R. at 7. Nick indicated that Melanie moved in after the altercation and believes that Sam and Melanie are in a romantic relationship. R. at 7. Nick further indicated that he was aware of the altercation that took place in the home he shared with the parties. R. at 6-7. Sam asked Brett to move out before finals or at the latest over the holiday break. R. at 9. Despite Brett's doubts of being able to move due to being in California for the holiday, he was able to rent an apartment. R. at 10. Lastly, Sam testified that his reason for obtaining a restraining order was because he was afraid of what his classmate, Brett, will do. R. at 5. Sam feared Brett would continue to try and jeopardize his law school career and ultimately his legal career, stating "his comments and actions are unnerving. I am afraid that he is going to get more violent with me in the future if I do not have protection from him." R. at 5. The record is silent on where Sam and Brett have decided to practice.

#### **Applicable Statute**

The New Jersey's Prevention of Domestic Violence Act states, in relevant part:

A victim is "any person who is eighteen years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member." "Victim of domestic violence" also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. "Victim of domestic violence" also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

N.J. Stat. Ann. § 2C:25-19(d) (West 2021).

### Argument

After all evidence was presented in the hearing on Plaintiff's Petition for a Final Restraining Order, Defendant moved to dismiss based on lack of subject-matter jurisdiction. The Defendant's motion to dismiss should be denied and a Final Restraining Order entered in favor of Sam Carson. Pursuant to New Jersey Rule 4:6-2(a), a party may file a motion to dismiss on the basis that the court does not have subject-matter jurisdiction over the case. N.J. Ct. R. 4:6-2(a). A motion to dismiss for lack of subject-matter jurisdiction is considered a favored defense and may be raised at any point in the litigation process. Hamilton, Johnston, & Co. v. Johnston, 256 N.J. Super. 657, 662 (App. Div. 1992). In any domestic violence case, the court must first determine whether the plaintiff is a "victim of domestic violence," and thus is entitled to relief. Hamilton v. Ali, 350 N.J. Super. 479, 481 (Ch. Div. 2001). The Act defines a victim as any person who is eighteen years of age or older who has been subjected to domestic violence by a spouse, former spouse, or any other person *who is a present or former household member*. Id. at 481 (emphasis added). However, since the Act does not define "household member" it has been interpreted as to expand the court's jurisdiction. Id. The Act has been amended several times, each time broadening the scope of coverage to afford every victim of domestic violence in the state the right to be protected from ongoing abuse. Id. The legislature broadened coverage by removing the word "cohabitant" and replacing it with "household member" in 1991. Id. Furthermore, the Act protects unrelated, same sex persons living together. Id. These facts explicitly evince the legislature's clear intent to expand the coverage of the Act and to extend protection.

Per the request of this Court, the sole focus of this brief is to determine whether the parties are household members under the Act. This Court has already found the assault by Brett

was an act of violence and expressed that if the parties are found to be household members, the Final Restraining Order will be entered. The Court should find that the parties are household members for the following reasons. First, the courts in this jurisdiction have, consistent with the language of the Act, liberally construed the term household member, to encompass protection for every citizen, regardless of how they form a familial relationship. Second, the legislative intent was to no longer trivialize—as evinced by the amendments—acts of violence taking place in a familial setting, and the assault here took place in the household following a dispute over household matters.

**I. Plaintiff and Defendant are household members because prevailing case law indicates that when the violence takes place in the home that the parties share at the time of the violence, they are household members under the Act.**

The Court should find that Plaintiff and Defendant are household members under the Act because the violence took place in the single-family home the parties shared. This Court has consistently construed the Act liberally to cast a wide net of victims under the Act. Housemates, like suitemates, qualify for protection under the Act. Hamilton v. Ali, 350 N.J. Super. 479, 488 (Ch. Div. 2001). If the parties were members of the same household at the time of the domestic violence charged, a victim can qualify under the Act without regard to the intent of permanency of the relationship or agreed length of the stay. Bryant v. Burnett, 264 N.J. Super. 222, 224 (App. Div. 1993). The parties need not even reside in the same residence to be considered “household members.” South v. North, 304 N.J. Super. 104, 109-10 (Ch. Div. 1997). Moreover, the parties do not have to have a familial or intimate relationship to be considered “household members” under the Act. J.S. v. J.F., 410 N.J. Super. 611, 618 (App. Div. 2009). However, a party may not qualify as a victim under the Act if the violence charged was unrelated to a past or present domestic relationship. Smith v. Moore, 298 N.J. Super. 121, 126 (App. Div. 1997).

The Court need not look any further than the most factually similar case under the Act, in which suitemates qualified as household members. Hamilton, 350 N.J. Super. at 488. In Hamilton, the plaintiff and defendant were college dormitory suitemates that had private rooms but shared a large common area where the suitemates would eat together on occasion. Id. at 479. The court sought to determine whether a college dormitory suitemate was a “victim” within the meaning of the New Jersey Prevention of Domestic Violence Act. Id. The Court reasoned that even though the roommates had separate sleeping quarters, the parties had to interact on a frequent basis, and the qualities and characteristics of their relationship placed the plaintiff in a more susceptible position for abusive and controlling behavior in the hands of the defendant. Id. at 487.

Like the parties in Hamilton, here Plaintiff and Defendant’s lease agreement of the single-family home necessitated their interaction. R. at 15. The facts state that Defendant had been late on nearly half the rent payments in the five-month period, requiring Plaintiff to interact with Defendant. R. at 3, 8. Furthermore, the facts indicate that the Plaintiff could not afford the upkeep of the home without rental income thus necessitating interaction with the Defendant on a near-monthly basis. R. at 2. However, the late rent payments were just the tip of Plaintiff’s need to interact with Defendant regarding the lease. The record further indicates that the Defendant was in violation of the agreement on numerous occasions when he would play loud music while studying again requiring that the Plaintiff interact with him to turn the music down. R. at 4.

The reasoning in Hamilton is analogous in that the qualities and characteristics placed the Plaintiff in a susceptible position for abusive and controlling behavior by the Defendant. The parties here are students at the same law school. R. at 3. The record indicates that the Defendant would play music so loud so that he could not hear the Plaintiff and would also lock the door to

further inhibit the Plaintiff's ability to speak with him. R. at 3. This speaks directly to the court's reasoning in Hamilton. The Defendant as a fellow law student is aware that both the Plaintiff and their other roommate need to study in the home daily, and blaring loud music would adversely affect their ability to concentrate. Moreover, the Defendant admitted that he would blare loud music to "drown out [Plaintiff's] nagging while I was studying." R. at 9. The Defendant further testified that he was "making a point" by playing the loud music. R. at 9. Furthermore, the facts indicate that the Defendant purposely withheld the Plaintiff's notes joking, "now Sam won't be able to study at all." R. at 5. The facts also state that Defendant stole a pair of Plaintiff's noise cancelling headphones and failed to return them. R. at 3.

These facts directly indicate that Defendant was aware of Plaintiff's susceptibility to control and he in turn took advantage of the Plaintiff's vulnerability throughout the tenancy in multiple situations. Additionally, the facts are silent on whether the Plaintiff and Defendant plan on practicing within the same state. However, the Court should recognize the Plaintiff's fearful purpose of obtaining this restraining order in that if he is barred remedy the Defendant may continue to abuse him throughout their law school matriculation and ultimately their legal careers.

Even absent the factually similar case of Hamilton, the parties here are still former household members, and Plaintiff is entitled to protection under the Act. A victim can qualify under the Act if the parties were housemates at the time of the domestic violence charged. Bryant, 264 N.J. Super. at 224 (finding that since the parties were members of the same household at the time of the domestic violence charged it was irrelevant that the defendant no longer resided with the plaintiff). Furthermore, it has been found that parties need not even reside in the same home to be "household members" under the Act. See, e.g., South, 304 N.J. Super. at 109-10 (finding the

defendant was a “household member” even though plaintiff and defendant had separate apartments in the same complex, reasoning that defendant was a constant presence in the plaintiff’s household). In fact, the Court has held that the parties need not even have a genuine relationship to be considered “household members.” See also, J.S., 410 N.J. Super. at 611 (finding that plaintiff was not automatically disqualified from claiming a dating relationship with defendant solely because defendant may have paid plaintiff for her company, affirming that the trial court properly entered the final restraining order in favor of the plaintiff pursuant to the New Jersey Prevention of Domestic Violence Act).

The facts in Bryant are analogous to this case, in that the parties also no longer resided within the same domicile. The Defendant no longer being a member of the household is irrelevant because on December 14, 2021, he was a member of the household as indicated by the record and the lease agreement. R. at 1, 15. The Court should find that like the parties in Bryant, Plaintiff and Defendant were members of the same household on the date of the violence charged and thus, were “household members” under the Act.

The facts in South are distinguishable, but the reasoning is relevant to the case at issue in that Plaintiff and Defendant resided in the same home thus should be held as “household members” under the Act. The case speaks to the broad discretion the court has practiced in determining who falls within meaning of “household members” under the Act. The parties’ tenuous relationship is of no relevance. Furthermore, as reasoned in J.S., the Defendant paying the Plaintiff for the use of the premises under a legally binding agreement does not negate that the parties had a domestic relationship which is indicated by the fact that they shared a home together.

This case is distinguishable from the holding in Smith because the Final Restraining Order sought by the Plaintiff is directly related to the past domestic relationship established by the lease

agreement. In Smith, the court held that that the trial court lacked jurisdiction to enter a restraining order because the parties did not share the requisite domestic relationship adequate to predicate jurisdiction under the Act. Smith, 298 N.J. Super. at 126 (finding the plaintiff did not qualify as a victim under the Act because the harassment charged took place months after the domestic relationship of the parties and was unrelated to the prior domestic relationship). However, the violence charged against Defendant is in direct relation to the living arrangement between him and Plaintiff unlike the harassment charged in Smith. Moreover, the violence took place in the home of the Plaintiff and Plaintiff is seeking remedy in fear of another occurrence.

The Court should now further distinguish Smith as the Appellate Division of this Court did in S.P. v. Newark Police Dep't, 428 N.J. Super. 210, 228 (App. Div. 2012) (finding that in contrast to Smith the charged harassment occurred in a common bathroom which directly related to the living arrangements), and S.Z. v. M.C., 417 N.J. Super. 622, 626 (App. Div. 2011) (finding that neither the fact that the parties never had a traditional familial, romantic, or sexual relationship nor the ten-month later time frame of the plaintiff finding the secret camera planted by the defendant defeated jurisdiction over the case because the defendant had resided with the plaintiff for seven months).

In all, the Court has established a strong precedent in favor of the Plaintiff. The Act is remedial and interpreted broadly to provide coverage, including to household members. The Plaintiff and Defendant occupied a single-family home for several months, had several verbal altercations, and eventually the Defendant physically assaulted the Plaintiff in the home they shared. It is of no consequence that Plaintiff and Defendant were not intimate or familial as household member is interpreted to include anyone in a family-like setting. The undefined term "household member" was specifically added to the Act, leaving to the courts' discretion who

qualifies. As a remedial act, the courts have broadly interpreted the term, recognizing the variety of ways people form family-like living arrangements. Plaintiff is entitled to protection under the Act. Therefore, the Court should find that the parties do qualify as “household members” and enter a Final Restraining Order in favor of Plaintiff.

**II. The legislature’s intent when replacing the word “cohabitant” with “household member” was as a matter of public policy meant to extend protection to victims such as the Plaintiff.**

The Plaintiff in this case falls under the class of victims the Act intended to protect and thus should be afforded remedy under the Act. The Act itself does not define “present or former household member”; however, the Legislative Declaration under the Act states that “it is the responsibility of the Courts to protect the victims of violence...by providing access to both emergent and long-term civil and criminal remedies and sanctions, and by ordering those remedies and sanctions that are available to assure the safety of the victims and the public.”

Hamilton v. Ali, 350 N.J. Super. 479, 482 (Ch. Div. 2001). To that end, the Legislature encourages the broad application of the remedies available under the Act in the civil and criminal courts. Id. at 482. Moreover, this legislative intent mandates this Court to liberally construe the remedies available and to protect any victim of violence occurring in a “family-like setting.” Id. Nor is it of any consequence that the parties had a written lease agreement governing their living arrangements, as they still resided in a “family-like” setting. R. at 14. In fact, the phraseology of “family-like” invites by its term a liberal interpretation. Hamilton 350 N.J. Super. 482.

Moreover, the legislature’s intent speaks directly to the fact that the Act is meant to protect those such as the Plaintiff. As a matter of public policy, the Plaintiff, and others in similar situations, will be unduly prejudiced if they are precluded from criminal and civil remedy arising from a cohabitating tenant that becomes violent. To preclude this class of victims from criminal

and civil remedy would be repugnant to the Act's purpose of preventing domestic violence as "the Legislature was not constitutionally required to impose a clear-and-convincing standard for the adjudication of domestic violence matters." J.S. v. J.F., 410 N.J. Super. 611, 618 (App. Div. 2009). The Defense argues that the Defendant does not qualify as a household member under the Act in that the Act should be narrowly construed to exclude this type of situation. However, the record indicates that the Plaintiff was assaulted in his own home by the Defendant, a classmate that was in a bind when the Plaintiff allowed him to reside in his home based on a contractual agreement. R. at 3-4.

Furthermore, the Plaintiff was merely acting within the power granted by the lease, under the "Care and Use of Premises" clause, when he approached Defendant about his loud music that was disturbing the comfort and convenience of the home. R. at 3-4, 15. Defendant is a law student that was in an equal position to freely negotiate the agreement between himself and Plaintiff. R. at 7-8. However, instead of simply abiding by the contract that he agreed to and signed, Defendant in a fit of rage assaulted Plaintiff for confronting him. R. at 3-4. The Court should not so narrowly construe this Act to deem the Defendant was not a household member and preclude the Plaintiff, a victim the Act is meant to protect, from remedy.

The breadth of coverage is evinced by the courts' application of the term household member. See, e.g., South v. North, 304 N.J. Super. 104, 109-10 (Ch. Div. 1997) (finding the defendant was a "household member" even though the plaintiff and defendant had separate apartments in the same complex, reasoning the defendant was a constant presence in the plaintiff's household). Moreover, the court has further acquiesced to a broad legislative intent to cover victims that do not live with or even have an actual relationship with the defendant beyond paid arrangements. J.S., 410 N.J. Super. 611 (finding that the plaintiff was not automatically

disqualified from claiming a dating relationship with defendant solely because defendant may have paid plaintiff for her company, affirming the trial court properly entered final restraining order in favor of the plaintiff pursuant to the New Jersey Prevention of Domestic Violence Act). Both holdings are relevant to the case at issue in that the Act has already been construed so liberally to not bar victims such as the Plaintiff from remedy. The Court should not now decide to narrowly construe the Act to preclude the Plaintiff and victims in similar circumstances from legal remedy.

In all, the legislative intent of the Domestic Violence Act is clearly to be construed liberally to allow victims such as the plaintiff to seek criminal and civil remedies. The Defendant was not a boarder, but instead should be found as a household member as interpreted by the courts in previous cases. If the Court rules in favor of the Defendant, it will in effect cast doubt on the legislature's true intention of setting a wide net to encompass victims of domestic violence such as the Plaintiff. Thus, the Court should find that the parties are "household members" as evinced by the legislature's intent, and enter a Final Restraining Order in favor of the Plaintiff.

### **Conclusion**

For the foregoing reasons, the Plaintiff, SAM CARSON, prays that this Honorable Court deny the Defendant's Motion to Dismiss.

Respectfully submitted,

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Danny Williams Jr.

Loyola Law Firm  
25 E. Pearson St.  
Chicago, IL

## Applicant Details

First Name **Sonya**  
 Middle Initial **D**  
 Last Name **Williams**  
 Citizenship Status **U. S. Citizen**  
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Address	<b>Address</b> <b>Street</b> <b>12406 Silverbirch Lane</b> <b>City</b> <b>Laurel</b> <b>State/Territory</b> <b>Maryland</b> <b>Zip</b> <b>20708</b> <b>Country</b> <b>United States</b>
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Contact Phone Number **3522190587**

## Applicant Education

BA/BS From **Old Dominion University**  
 Date of BA/BS **May 2020**  
 JD/LLB From **The University of the District of Columbia**  
**David A. Clarke School of Law**  
<http://www.law.udc.edu/>  
 Date of JD/LLB **May 13, 2023**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **David A. Clarke School of Law, Law Review**  
 Moot Court Experience **No**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/  
Externships      **No**  
Post-graduate  
Judicial Law Clerk      **No**

### **Specialized Work Experience**

### **Recommenders**

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Snow, Vanita Saleema  
vanita.snow@udc.edu  
(202) 802-0853

Hughes, Jerome  
jerome.hughes@udc.edu  
(617) 763-7876

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

## SONYA D. WILLIAMS

---

Laurel, Maryland | 3522190587 | sonya.williams@udc.edu

March 28, 2023

Dear Honorable Walker,

As a third-year law student at the David A. Clarke School of Law, I would love an opportunity to work within your chambers for the 2024-2025 term.

Before Law School, I worked in the United States Navy for almost 8 years. While enlisted, I assisted fellow attorneys by drafting correspondence, performing legal research, and preparing case briefs. This is where I gained my passion for law and decided to pursue becoming an attorney.

My two internships transformed me as a student and attorney. In the summer of 2021, I interned at the Department of Veterans Affairs for the Office of General Counsel (Benefits Law Group). I researched questions that the DOJ sent to our office, drafted memorandums of my research, wrote letters to the Secretary of Veteran Affairs and analyzed legal briefs which assisted supervising attorneys in preparing their arguments. In the fall of 2022, I worked within the Maryland Office of the Attorney General, Antitrust division. This was such an exciting internship that pushed me to learn a new area of law quickly and participate in challenging cases as part of a small team.

While at UDC Law, I participated in three legal clinics: The Community Development Legal clinic, the Whistleblower Protection Clinic and the Tax Litigation Clinic. From these clinics, I developed strong research and writing skills. The clinical experience transformed me into a dedicated advocate. I am passionate about enhancing my skills as an attorney and will be a resilient clerk if provided the opportunity.

My husband is an active-duty Navy Submariner Chief. For the last year, we have been patiently waiting to receive orders to the Hampton Roads area, as it's where we lived for 8 years before transferring to Washington DC. Now that we have official orders back to Hampton Roads, it is my hope to secure a clerkship with a judge that can further help guide me towards my destiny of becoming a warrior for those in need and grow my knowledge of the law and court system. I can elaborate more if allowed an opportunity to meet, but I wanted to provide some insight into why I am applying later than the traditional timeline for law student candidates.

Attached you will find my resume, transcript, references, and a writing sample. I am extremely motivated and feel very confident that my work ethic, work experience, discipline, writing and research skills make me an excellent candidate for an internship. Thank you for considering my candidacy.

Sincerely,

Sonya Denise Williams

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## SONYA D. WILLIAMS

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Laurel, MD 20708 • sonya.williams@udc.edu • 352-219-0587

### EXPERIENCE

#### **The Veterans Consortium Pro Bono Program**

**April 11, 2023 - Current**

##### **Legal Assistance Program**

###### *Women's Clinic Volunteer*

- Accessed clients files, performed research and provided list of best resources to women Veterans suffering from urgent legal issues.

#### **Tax Litigation Clinic**

**January 3, 2023 - Current**

##### **David A. Clarke School of Law, The University of the District of Columbia**

###### *Certified Student Attorney*

- Represented low-income tax clients before the Internal Revenue Service, Comptroller of Maryland, and District of Columbia Office of Tax and Revenue in collection matters;
- Prepared legal memorandum for supervising attorney regarding federal tax controversy issues for clients in tax disputes with the Internal Revenue Service and State Taxing Authorities.

#### **Maryland Office of the Attorney General (OAG)**

**September 12, 2022 – December 21, 2022**

##### **Antitrust Division**

###### *Law Student Intern*

- Performed legal research and drafted memorandums focused on noncompete agreements and disgorgement under the Maryland Sherman Act.

#### **Whistleblower Protection Legal Clinic**

**May 16, 2022 – August 12, 2022**

##### **David A. Clarke School of Law, The University of the District of Columbia**

###### *Certified Student Attorney*

- Assisted Clients with Whistleblower concerns regarding Government responsibilities, whistleblower protections, and the rights of the whistleblower;
- Accessed client cases in determining whether Whistleblower protections apply; and
- Researched Whistleblower laws and Drafted Client Intake in accordance with findings

#### **Community Development Law Clinic**

**January 3, 2022 – August 12, 2022**

##### **David A. Clarke School of Law, The University of the District of Columbia**

###### *Certified Student Attorney*

- Advised Clients on transactional matters related to starting a non-profit corporation, Cooperatives, financing, entity tax, and affordable housing;
- Drafted and reviewed organizational documents for various types of businesses and social enterprises;
- Assisted clients with corporate governance activities, including structuring board meetings, drafting resolutions, reviewing organizational documents, updating bylaws, and drafting bylaws; and
- Prepared legal memos on client questions in regard to Housing Cooperative shares transfer process under Probate law. Assisted in revision of the Bylaws for two Cooperatives.

#### **Department of Veterans Affairs**

**June 1, 2021-July 27, 2021**

##### **Office of General Counsel – Benefits Law Group**

###### *Legal Intern*

- Reviewed and analyzed opposing counsel's Summary Judgement Briefs, VA Reply Summary Judgment motions, and Reply Briefs for legal sufficiency and factual inconsistencies;
- Researched, outlined and wrote memorandums including, but not limited to Appellate Summary Judgement Briefs, VA Reply Summary Judgment motions, and Appellate Reply Briefs for supervising attorneys during pre-trial litigation;
  - When applicable, wrote alternative considerations when a Claimant's appeal warranted a denial under statute, but the claim deserved special attention due to unique circumstances (Advocated for a change in the law based on the amount of similar yet failed claims).

- Independently drafted three Equitable Relief Benefits recommendation's on behalf of the Secretary of the Department of Veterans Affairs with supervisory approval.

**United States Navy – Enlisted**

**April 2011 – June 2018**

**U.S. Navy Regional Legal Services Office Mid-Atlantic, Norfolk, VA March 2017 – April 2018**

*Legal Intern/Legal Clerk*

- Worked directly under 12 attorneys as their assistants while drafting more than 85 Wills, 45 SGLV forms, and 45 legal correspondences for military-affiliated families;
- Managed over 2,000 client files, organized Attorney cases, and briefed results;
- Received award - Department of Justice Outstanding Law Enforcement Public Service Award, May 2019 (*United States v. PRG Real Estate Management, Inc. et al.*)
  - Assembled and researched Companies that had default judgments issued to Military members that were previous residents of their apartment complexes without proper notice of court and in violation of the Service Members Civil Relief Act. The District attorney of Virginia argued the case and gained a judgment of 1.4 million dollars plus credit repair to each injured plaintiff.

**Fleet Readiness Center Mid-Atlantic, Virginia Beach, Virginia**

**December 2014 – February 2017**

*Legal Clerk*

- FRCMA's Five Site Legal Division Leading Petty Officer and direct liaison to the Commanding Officer,
- Led nine legal clerks in the processing of over 200 legal cases including 60 Non-judicial Punishments and Executive Officer Inquiry's, 30 Disciplinary Review Boards, 67 Civilian Conviction cases, and 16 Administration Boards.

**United States Navy, Norfolk, Virginia**

**September 2011 – June 2015**

*Aviation Ordnanceman Petty Officer Second Class, Enlisted Air Warfare Specialist "AO2 (A.W.)"*

*USS Dwight D. Eisenhower CVN-69*

- Assembled, loaded, unloaded, manned, or certified over 300 bombs, missiles, rockets, guns, targets, sonobuoys, ammunition over two deployments and seven ship workups.

**EDUCATION**

**University of the District of Columbia David A. Clarke School of Law, Washington, DC**

J.D. expected, **May 2023**

*GPA: 3.35*

*Activities:* Law Review, 2022-2023 Symposium Editor  
 Black Law Students Association, Law Review Coordinator  
 2L Day Senator, Student Bar Association  
 Phi Alpha Delta Law Fraternity, Cahn Chapter  
 Military and Veterans Law Society, President  
 Joseph L. Rauh, Jr. Summer Public Interest Fellow, 2021  
 Lead Advocate in establishing Lactation space on UDC Law Campus

*Awards:* Amare and Ava Scholarship Awardee  
 Simi Cares Scholarship Awardee  
 Merit Scholarship

**Old Dominion University, Norfolk, VA**

B.S., Sociology, May 2020

B.S., *Cum laude*, Criminal Justice, May 2020

*Sociology, GPA: 3.38*

*Criminal Justice, GPA: 3.44*

*Honors:* ODU Deans List Spring and Summer 2019, Spring 2020

*Activities:* Extensive list including Student Government and Veterans Association. Full list can be provided upon request.

**American Military University, VA**

A.S., Paralegal Studies, **May 2018**

*GPA: 3.34*

(/StudentSelfService/)

Sonya D Williams

Student Academic Transcript

Academic Transcript

Transcript Level

Law

Transcript Type

Unofficial/Advising Transcript

Student Information

Institution Credit

Transcript Totals

Course(s) in Progress

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Student Information

Name

Sonya D Williams

Birth Date

Sep 25, 1987

Curriculum Information

Current Program : Juris Doctor

Program

JD - Law - Full time

College

David A Clarke  
School of Law

Major and  
Department

Law Full-time, DACSL  
Clinical Law

Institution Credit

Term : Fall 2020

**College**

David A Clarke  
School of Law

**Major**

Law Full-time

**Academic Standing**

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L101A	LW	Torts I	C-	3.000	5.100	
LAW	L102	LW	Civil Procedure I	B-	3.000	8.100	
LAW	L103	LW	Criminal Law	A-	3.000	11.100	
LAW	L104	LW	Contracts I	B	3.000	9.000	
LAW	L105	LW	Lawyering Process I	B+	3.000	9.900	
LAW	LLAB	LW	Lab	S	0.000	0.000	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term</b>	15.000	15.000	15.000	15.000	43.200	2.880
<b>Cumulative</b>	15.000	15.000	15.000	15.000	43.200	2.880

Term : Spring 2021

**College**

David A Clarke  
School of Law

**Major**

Law Full-time

**Academic Standing**

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L100R	LW	Legal Research	B	1.000	3.000	
LAW	L107	LW	Civil Procedure II	A-	3.000	11.100	
LAW	L108	LW	Criminal Procedure	C+	3.000	6.900	
LAW	L109	LW	Contracts II	A-	3.000	11.100	
LAW	L110	LW	Lawyering Process II	B	2.000	6.000	
LAW	L231A	LW	Torts II/Products Liability	B	3.000	9.000	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term</b>	15.000	15.000	15.000	15.000	47.100	3.140
<b>Cumulative</b>	30.000	30.000	30.000	30.000	90.300	3.010

Term : Fall 2021

**College**

David A Clarke  
School of Law

**Major**

Law Full-time

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L201	LW	Constitutional Law I	B+	4.000	13.200	
LAW	L202	LW	Evidence	B+	4.000	13.200	
LAW	L203	LW	Professional Responsibility	B-	2.000	5.400	
LAW	L204A	LW	Property I	B	3.000	9.000	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term</b>	13.000	13.000	13.000	13.000	40.800	3.138
<b>Cumulative</b>	43.000	43.000	43.000	43.000	131.100	3.048

Term : Spring 2022

**College**

David A Clarke  
School of Law

**Major**

Law Full-time

**Academic Standing**

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L205	LW	Constitutional Law II	B-	4.000	10.800	
LAW	L227A	LW	Property II	A-	3.000	11.100	
LAW	L906	LW	Clinic I-Community Development	A+	7.000	30.100	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term</b>	14.000	14.000	14.000	14.000	52.000	3.714
<b>Cumulative</b>	57.000	57.000	57.000	57.000	183.100	3.212

Term : Summer 2022

### College

David A Clarke  
School of Law

### Major

Law Full-time

### Academic Standing

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L450	LW	Moot Court	B+	2.000	6.600	
LAW	L953A	LW	Clinic II Whistleblower Prote	A	7.000	28.000	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	9.000	9.000	9.000	9.000	34.600	3.844
Cumulative	66.000	66.000	66.000	66.000	217.700	3.298

Term : Fall 2022

### College

David A Clarke  
School of Law

### Major

Law Full-time

### Academic Standing

Good Standing

### Last Academic Standing

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	L206	LW	Business Organizations I	B+	3.000	9.900	
LAW	L209	LW	Wills & Estates	A+	3.000	12.900	
LAW	L212	LW	Taxation I	B-	3.000	8.100	
LAW	L500	LW	Independent Study	A+	1.000	4.300	
LAW	L986	LW	Ext'd Clinic-Community	A+	2.000	8.600	
LAW	LCP02	LW	Clinic Portfolio	S	0.000	0.000	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	12.000	12.000	12.000	12.000	43.800	3.650
Cumulative	78.000	78.000	78.000	78.000	261.500	3.352

## Transcript Totals

Transcript Totals - (Law)	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Total Institution</b>	78.000	78.000	78.000	78.000	261.500	3.352
<b>Total Transfer</b>	0.000	0.000	0.000	0.000	0.000	0.000
<b>Overall</b>	78.000	78.000	78.000	78.000	261.500	3.352

## Course(s) in Progress

Term : Spring 2023

### College

David A Clarke  
School of Law

### Major

Law Full-time

Subject	Course	Level	Title	Credit Hours
LAW	L342	LW	Legal/Bar Success Foundations	3.000
LAW	L400	LW	Law Review (Editorial Board)	1.000
LAW	L400A	LW	Law Review	1.000
LAW	L991A	LW	Elect. Clinic - Tax	7.000



SONYA D. WILLIAMS  
Oct 13, 2021 12:22 pm

## Display Transcript



This is NOT an official transcript. Unofficial transcripts are for personal use only. Courses which are in progress may also be included on this transcript.

[Transfer Credit](#)   [Old Dominion University Credit](#)   [Transcript Totals](#)

### Transcript Data

#### STUDENT INFORMATION

**Name :** SONYA D. WILLIAMS

#### Curriculum Information

##### Current Program

**Major and Department:** Sociology,  
Sociology/Criminal  
Justice

##### Secondary

**Major and Department:** Criminal Justice,  
Sociology/Criminal  
Justice

\*\*\*This is NOT an Official Transcript\*\*\*

#### AWARDED:

**Awarded:** Bachelor of Science      **Degree Date:** May 09, 2020

**Institutional Honors:** Cum Laude

#### Curriculum Information

##### Primary

**Major:** Sociology

##### Secondary

**Major:** Criminal Justice

#### TRANSFER CREDIT ACCEPTED BY INSTITUTION      [-Top-](#)

**WI16-SP19:** AMERICAN MILITARY UNIVERSITY

Academic Transcript

[https://leoonline.odu.edu/plsqlweb/bwskotrn.P\\_ViewTran](https://leoonline.odu.edu/plsqlweb/bwskotrn.P_ViewTran)

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
COMM	112R	INTRO-INTERPERS COMMUNICATION	TP	3.000		0.00
CRJS	215S	INTRODUCTION TO CRIMINOLOGY	TP	3.000		0.00
ENGL	112L	INTRODUCTION TO LITERATURE	TP	3.000		0.00
GNRL	1ELE	ELECTIVE	TP	3.000		0.00
GNRL	2ELE	ELECTIVE	TP	3.000		0.00
GNRL	2ELE	ELECTIVE	TP	3.000		0.00
GNRL	2ELE	ELECTIVE	TP	3.000		0.00
HIST	2ELE	ELECTIVE	TP	3.000		0.00
INTP	1REQ	INTERPRET PAST (LOWER-DIV REQ)	TP	3.000		0.00
MATH	102M	COLLEGE ALGEBRA	TP	3.000		0.00
POLS	101S	INTRO TO AMERICAN POLITICS	TP	3.000		0.00
		<b>Attempt Hours</b>	<b>Passed Hours</b>	<b>Earned Hours</b>	<b>GPA Hours</b>	<b>Quality Points</b>
<b>Current Term:</b>		33.000	0.000	33.000	0.000	0.00

Unofficial Transcript

**FA05-SP06:** NORTH FLORIDA COMMUNITY COLL

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
ENGL	110C	ENGLISH COMPOSITION	TP	3.000		0.00
ENGL	211C	ENGLISH COMPOSITION	TP	3.000		0.00
		<b>Attempt Hours</b>	<b>Passed Hours</b>	<b>Earned Hours</b>	<b>GPA Hours</b>	<b>Quality Points</b>
<b>Current Term:</b>		6.000	0.000	6.000	0.000	0.00

Unofficial Transcript

**FA06-FA09:** SANTA FE COLLEGE FLORIDA

Subject	Course	Title	Grade	Credit Hours	Quality Points	R
BIOL	121N	GENERAL BIOLOGY I	TP	3.000		0.00
BIOL	122N	GENERAL BIOLOGY I LAB	TP	1.000		0.00
ENGL	2ELE	ELECTIVE	TP	3.000		0.00
HC	1REQ	HUM CREAT (LOWER-DIV REQ)	TP	3.000		0.00
MATH	1ELE	ELECTIVE	TP	3.000		0.00
OEAS	2ELE	ELECTIVE	TP	1.000		0.00
PHIL	230E	INTRODUCTION TO ETHICS	TP	3.000		0.00
PSYC	201S	INTRODUCTION TO PSYCHOLOGY	TP	3.000		0.00
SOC	201S	AN INTRODUCTION TO SOCIOLOGY	TP	3.000		0.00
SOC	2ELE	ELECTIVE	TP	3.000		0.00
		<b>Attempt Hours</b>	<b>Passed Hours</b>	<b>Earned Hours</b>	<b>GPA Hours</b>	<b>Quality Points</b>
<b>Current Term:</b>		26.000	0.000	26.000	0.000	0.00

Unofficial Transcript

**OLD DOMINION UNIVERSITY CREDIT** -Top-

**Term: Fall 2018**

**Academic Standing:** Good Academic Standing

Subject	Course Level Title			Grade	Credit Hours	Quality Points	Start and End Dates	R
CRJS	323	UG	POLICE IN AMERICAN SOCIETY	C+	3.000	6.90		
SOC	325	UG	SOCIAL WELFARE	A	3.000	12.00		
SOC	421	UG	DEVIANT BEHAVIOR	A	3.000	12.00		
SOC	441	UG	DRUGS AND SOCIETY	B+	3.000	9.90		
STAT	130M	UG	ELEMENTARY STATISTICS	B	3.000	9.00		

**Term Totals (Undergraduate)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	15.000	15.000	15.000	15.000	49.80	3.32
<b>Cumulative:</b>	15.000	15.000	15.000	15.000	49.80	3.32

Unofficial Transcript

**Term: Spring 2019**

**Academic Standing:** Good Academic Standing

**Additional Standing:** Dean's List

Subject	Course Level Title			Grade	Credit Hours	Quality Points	Start and End Dates	R
CRJS	355	UG	CRIME AND THE COMMUNITY	B+	3.000	9.90		
OEAS	106N	UG	INTRODUCTORY OCEANOGRAPHY	A-	4.000	14.80		
SOC	340	UG	SOCIOLOGY OF WOMEN	A	3.000	12.00		
SOC	395	UG	RACE ETHNICITY CRIME JUSTICE	A	3.000	12.00		

**Term Totals (Undergraduate)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	13.000	13.000	13.000	13.000	48.70	3.74
<b>Cumulative:</b>	28.000	28.000	28.000	28.000	98.50	3.51

Unofficial Transcript

**Term: Summer 2019**

**Academic Standing:** Good Academic Standing

Subject	Course Level Title			Grade	Credit Hours	Quality Points	Start and End Dates	R
CRJS	426W	UG	CRIMINOLOGICAL THEORY	A-	3.000	11.10		
SOC	323	UG	SOCIOLOGY OF MINORITY FAMILIES	A	3.000	12.00		
SOC	409W	UG	SOCIOLOGICAL THEORY	A-	3.000	11.10		

**Term Totals (Undergraduate)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	9.000	9.000	9.000	9.000	34.20	3.80
<b>Cumulative:</b>	37.000	37.000	37.000	37.000	132.70	3.58

Unofficial Transcript

**Term: Fall 2019**

**Academic Standing:** Good Academic Standing

Subject	Course Level Title			Grade	Credit Hours	Quality Points	Start and End Dates	R
CRJS	262	UG	LAW & CRIMINAL JUSTICE SYSTEM	B+	3.000	9.90		
SOC	309	UG	POPULATION & SOCIETY	C-	3.000	5.10		
SOC	337	UG	INTRO TO SOCIAL RESEARCH	C+	3.000	6.90		
SOC	408	UG	CHILDREN'S RIGHTS AND THE LAW	B+	3.000	9.90		

**Term Totals (Undergraduate)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	12.000	12.000	12.000	12.000	31.80	2.65
<b>Cumulative:</b>	49.000	49.000	49.000	49.000	164.50	3.35

Unofficial Transcript

**Term: Spring 2020**

**Academic Standing:** Good Academic Standing

**Additional Standing:** Dean's List

Subject	Course Level Title			Grade	Credit Hours	Quality Points	Start and End Dates	R
CRJS	222	UG	THE CRIMINAL JUSTICE SYSTEM	A	3.000	12.00		
CRJS	316	UG	JUVENILE DELINQUENCY	C+	3.000	6.90		
CRJS	395	UG	TPCS: FILM AND SOCIETY	A	3.000	12.00		
CRJS	445	UG	WORKPLACE LAW & SOCIETY	A-	3.000	11.10		
SOC	436	UG	CAPSTONE RESEARCH PROJECT	A	3.000	12.00		

**Term Totals (Undergraduate)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	15.000	15.000	15.000	15.000	54.00	3.60
<b>Cumulative:</b>	64.000	64.000	64.000	64.000	218.50	3.41

Unofficial Transcript

**TRANSCRIPT TOTALS (UNDERGRADUATE) -Top-**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Overall:</b>	129.000	64.000	129.000	64.000	218.50	3.41

Unofficial Transcript

**RELEASE: 8.7.1**

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May 10, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am a retired Navy Captain who served 23 years in the Reserve Component of the Judge Advocate General's Corps. I also served 27 years as a civilian Legal Assistance Attorney. It was in this capacity that I first came to know Mrs. Sonya Williams. She transferred to the Region Legal Service Office, Mid Atlantic's Legal Assistance office as a non-legal enlisted sailor. She stated was interested in law and wanted to become a lawyer. Of note is that Mrs. Williams was so impressive at her Command that when she said she wanted to study law they temporarily assigned her to my Command to gain experience in a legal office.

Legal Assistance is a general practice ranging from automobile purchases to wills with the primary mission of resolving legal issues so Servicemembers can focus on national defense. I trained all the new attorneys and had the opportunity to train and work with Mrs. Williams. Her intelligence and focus allowed her to quickly exceed the practical paralegal skills of the office staff. She proved to be an invaluable member of our team demonstrating a strong ability to analyze and organize case facts to support the legal elements of the issues we faced.

We presented a case before the Armed Forces Disciplinary Control Board against an automobile dealership. Mrs. Williams interviewed witnesses, collected statements and researched the available history on the dealership personnel. She learned to analyze automobile transactions and combed through the Buyer's Orders, finance and other documents for evidence of unlawful conduct. She identified patterns of misrepresentation and fraud. The case resulted in termination of several purchase contracts with tens of thousands of dollars refunded to servicemembers, and the Dealership was placed off-limits to servicemembers protecting others from its misconduct. The president of the Board stated it was the most thorough case ever presented.

In another case, I flagged a default judgment by a large multi-state landlord against a servicemember that appeared to violate the Servicemembers Civil Relief Act (SCRA). Ms. Williams went through local court records of default judgments from this landlord and identified over thirty servicemembers. She contacted the individuals and obtained their statements and documents. The landlord was providing false information to the court to take advantage of a loophole in the default judgment provisions of the SCRA. Mrs. Williams efforts provided a pattern of unlawful activity sufficient to submit the case to the Department of Justice for enforcement of the SCRA. The result was the largest settlement ever obtained against a single landlord, 1.49 million dollars much of which was returned to servicemembers.

Our office drafted thousands of wills each year for sailors. During a surge in deployment activity Mrs. Williams offered to help with drafting the documents. She learned how to draft wills and in the process developed a training handbook to help other non-legally trained enlisted staff to draft documents in support of a major deployment of troops.

I have followed her path and was honored to see that she maintained her commitment to service and the law. Her journey from enlisted sailor to attorney is a testament to her intellect, perseverance, and dedication.

I know that she will be a clerk who's career you will want to follow she represents the best in our profession.

Sincerely,

Dwain Alexander, II

Dwain Alexander II - dwain.alexanderII.esq@gmail.com - (757)870-9117



Community Development Legal Clinic  
UDC David A. Clarke School of Law

April 23, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse 600 Granby Street  
Norfolk, VA 23510-1915

**RE: Letter of Recommendation for Sonya Williams**

Dear Judge Walker:


It is with honor and admiration that I write this letter of recommendation for Sonya Williams. This recommendation is based upon my supervision of Sonya in the Community Development Law Clinic. I can sincerely attest to Sonya's work ethic, diligence to improving her legal acumen, and commitment to excellence in legal practice and public service.

In the clinic, Sonya was a zealous advocate and professional in her representation of three clients, which involved diverse public interest transactional matters. A housing-related representation involved Sonya facilitating a board of directors and navigating longstanding conflicts about the renovation of their building. Another matter involved the creation of a nonprofit entity with the goals of supporting low-income residents. Sonya quickly learned the content of nonprofit incorporation, drafted organizational documents, and supported her client's goals. A final client involved conducting analysis on an inheritance-related issue. In this project, Sonya conducted research on two areas of law, bridged the analysis from the two areas, and developed a research memo for our partnering attorneys.

In each of these client representations, Sonya excelled in initiating the representation, engaging with the clients, assessing the details of the situation, conducting written research, drafting the appropriate documents and creating value for our clients. By the end of the clinic, Sonya achieved 446 hours of representation for her clients, which was far beyond the 297.5 hours required for the clinic and in addition to her non-clinic course responsibilities that semester.

I recommend Sonya Williams without reservation based not only upon my experience of her work, diligence, and discernment but also upon her commitment to work in the public interest. Let me know if you have any questions or would like to speak further about this recommendation.

Sincerely,

  
Jerome Hughes  
Assistant Professor of Law  
Director,  
Community Development Law Clinic  
David A. Clarke School of Law  
University of the District of Columbia

*Practice Law. Promote Justice. Change Lives.*

4340 Connecticut Avenue NW | Room 334 | Washington, DC 20008 | 202.274.5122

## MEMORANDUM

TO: Professor Hughes, Supervising Attorney  
FROM: Sonya Williams, Certified Student Advocate  
DATE: June 18, 2022  
RE: Transfer of Inheritance shares

---

This memorandum will address the legal process of transferring Cooperative membership shares probate and intestate under the D.C. Code and Industry Standard of Cooperative Bylaws.

## QUESTION PRESENTED

The issue is whether Housing Cooperative shares can be transferred to a beneficiary or heir after the death of a Cooperative member.

## BRIEF ANSWER

Yes. Under the D.C. Code and the current Bylaws of the Cooperative, Limited Equity Cooperative shares can be transferred probate and intestate.

## BACKGROUND

13<sup>th</sup> Street Terrace Cooperative (the “Client” or “Cooperative”), a limited equity cooperative incorporated as a general cooperative association, owns the premises located at (insert address). The Cooperative has 24 units which are occupied primarily by elderly residents. The Cooperative contacted Neighborhood Legal Services Program (NLSP) for assistance with concerns involving the transfer of membership shares after the death of a cooperative member. NLSP contacted the Community Development Law Clinic for assistance in their issue.

In 2020, the Cooperative experienced a member’s death. Due to a lack of will, the Cooperative struggled to locate a possible heir to the shares. Once located, there were significant issues regarding what they should do to transfer the shares. Also in 2020, a member passed away that left the shares to a family member, but the member died with a loan contract and the family member has yet to assume the shares. These issues created extensive carrying charges and monthly fees that whoever assumes the shares would be required to pay, whether they apply for membership or not. But the process of transfer has lasted over 2 years since the death of the members and the charges will continue to increase until the Cooperative understands the processes and their options revolving around member deaths. Over the last three years, many issues have arisen regarding inheritance and subsequent transfer of Cooperative shares.

The primary issues for the Cooperative concern the process of transfer and whether the Cooperative's actions are aligned with what’s required under the DC’s probate law. The Cooperative’s members need help understanding exactly what occurs when a person passes away intestate and probate under a range of scenarios. The first scenario involves the death of a

Cooperative member who provided the name of the person she intended to leave the Cooperative shares. The second scenario (“Intestate Scenario”) revolves around a Cooperative member who passes intestate and does not provide a name of the person that is to inherit the shares.

The third scenario (“Roommate Scenario”) surrounds a Cooperative member who owns a share in the Cooperative and shares their unit with a roommate, which is a family member who is not an owner of the share. The fourth scenario deals with the naming of a beneficiary but there are unpaid loans attached to the membership share.

## DISCUSSION

### 1. What are the general legal requirements for inheritance?

Inheritance rights are determined in accordance with DC probate laws pursuant to Title 18, 19, and 20 and related case law. Real property and personal property can be passed to another through a will or by intestacy. D.C. Code § 42-301. To open an estate with the Probate Office, a will must be filed within 90 days of the death of the deceased person. D.C. Code § 18-102 generally requires that a will be in writing, signed by the testator and attested to and subscribed in the presence of the testator by at least two credible witnesses. Probate division, PROBATE DIVISION | DISTRICT OF COLUMBIA COURTS, <https://www.dccourts.gov/superior-court/probate-division> (last visited May 3, 2022). If the deceased person had no will, a petition may be filed and indicate intestate to open the estate with the Probate’s office. Large estates, worth \$40,000.00 or more, must be filed in the large estate office at the Probate Office, and small estates, worth \$39,999.99 or less, must be filed as a small estate in the Probate Division. LARGE DECEDENT’S ESTATES (ADM) | DISTRICT OF COLUMBIA COURTS, <https://www.dccourts.gov/services/probate-matters/large-decedents-estates-adm> (last visited Apr 6, 2022). A personal representative, either appointed by will or by the court, will administer the decedent’s estate. *Id.* After the wills and petitions are filed, the cases are normally reviewed by the Office of Wills and Probate within 60 days of its filing.

### 2. Are cooperative shares in 13th Street cooperative inheritable?

Housing Cooperatives are entities that own buildings which have individual units. Those units are associated with shares. Each purchase of a share equates to ownership and voting rights. *Vill. Green Mut. Homes, Inc. v. Randolph*, 361 Md. 179, 760 A.2d 716 (2000). Those shares give the Cooperative member voting capacity on topics associated with the building. When a buyer purchases cooperative shares, they are purchasing an interest in the entity, not the property itself. *Id.*

Housing cooperatives are incorporated as general cooperative associations under DC Code Chapter 9 Section 29. Membership in housing cooperatives involve a combination of rights defined by the membership documents, including the membership share, a proprietary lease, and the organizational documents of the cooperative. *Id.* Membership shares represent the ownership rights in the housing cooperatives as an entity. *Id.* The proprietary lease contains the rights to occupy and use the physical unit. Inheritance of cooperative shares are bound by the Cooperatives bylaws govern regarding the transfer process. *CHFA-Small Props. v. Elazazy*, No. HHDCV126036169S, 2013 Conn. Super. LEXIS 2588 (Super. Ct. Nov. 12, 2013).

Generally, the estate of a decedent, including real and personal property, are inheritable under the DC Code. D.C. Code § 42-301. The Courts consider stocks as part of the decedent's estate. *In re Estate of Burton*, 541 A.2d 599 (D.C. 1988). DC courts have consistently held that housing cooperative shares are a hybrid of real and personal property and that the membership shares are inheritable. *Lemp v. Keto*, 678 A.2d 1010 (D.C. 1996). In *Lemp v Keto*, the Court examined the issues of exoneration and which part of the decedent's estate, specific devisees or the residuary legatee, was responsible for the costs of maintaining specifically devised property before the property had been distributed according to the will. *Id.* As part of their holding, the Court held that exoneration applied to cooperative shares similar to other real property. *Id.* The court reasoned that cooperative shares involved a blend of real property because they were similar to a condo style relationship under real estate and personal property and that the ownership of the shares is linked to the actual building instead of a particular unit like in condos. *Snowden v. Benning Heights Coop., Inc.*, 557 A.2d 151 (D.C. 1989). With that said, the owners of the shares do not own a particular unit in the building, and thus the units themselves are not inheritable.

While Courts have held that Cooperative shares are inheritable, it is also known that membership in a housing cooperative involves a contract, including the bylaws that members are assumed to accept as part of membership. *Willens v. 2720 Wis. Ave. Coop. Ass'n*, 844 A.2d 1126 (D.C. 2004). On a case-by-case basis, Courts will examine the various membership rights as provided by the bylaws and other organizational documents. *Snowden v. Benning Heights Coop., Inc.*, 557 A.2d 151 (D.C. 1989).

**Membership Share Rights.** The bylaws provide specific rights related to the member's shares. Pursuant to section 8 (D) of the bylaws, the cooperative can buy the shares from the decedent members estate or they can sell the shares to another qualified person. *See* Exhibit 1, Cooperative Bylaws. If neither occurs, a decedent's representative can sell the decedent member's share pursuant to Section 8 (D)(1). Under DC Code § 29-925, no membership share or capital in that membership proving ownership shall be issued until the par value of the unit has been paid in full.

**Membership Occupancy Rights.** The bylaws also provide specific rights related to the inheritance of membership and occupancy. The bylaws provide that an heir/beneficiary should submit an application for membership within 60 days of the cooperative members death. *Id.* The Board will approve or reject the application. DC Code § 29-923, permits a cooperative to determine Eligibility for membership. After approval, the heir (applicant) should submit in writing a letter of acceptance within 30 days of the approval and pay all charges associated with the unit including carrying charges.

### 3. What are the relevant legal requirements for the decedent scenarios faced by 13th Street Cooperative?

#### Scenario 1: Named Beneficiary

Here, a deceased member has identified whom they want to inherit their owned shares in the cooperative and lists them in their will. This person is called the beneficiary.

**Membership and Occupancy Rights.** The cooperative bylaws requires a named beneficiary to apply for membership within 60 days pursuant to Bylaws section 8 (D). *Id.* Beyond the 60 days, the cooperative may limit the Named beneficiary from applying for membership to the cooperative. Notably, the 60-day timeline for applying for membership in the cooperative is not aligned with much longer timeline for establishing inheritance.

**Membership Share Rights.** Beyond the 60 days, the cooperative may sell the membership certificate pursuant to section 8 (D). If the cooperative does not sell the shares, the beneficiary can sell the shares back to the Cooperative or sell the shares to a private purchaser.

**Costs.** The beneficiary will incur the carrying charges and monthly rent for the shares. The first two months after the death of the Cooperative member, all costs associated with the membership shares is to be paid by the Beneficiary (regardless of whether they apply for membership, get accepted/denied or sell the shares. After the first two months, the Cooperative has a duty to try to find a new Cooperative member in order to mitigate their losses from the empty unit. *Watergate W., Inc. v. Barclays Bank, S.A.*, 759 A.2d 169 (D.C. 2000). If the shares are sold back to the Cooperative, the Cooperative will be responsible for the charges. *Id.*

#### **Additional Considerations**

The current Bylaws currently pose a conflict regarding applying for membership and the probate process in D.C. The bylaws require that the beneficiary apply for membership within 60 days of the Decedents death. But the Probate Process may conflict with this time frame considering some beneficiary's may not be aware of their inheritance of the property interests until up to 8 months after the death. If this occurs, the Cooperative would lose income if they decide to wait to see if the beneficiary wants to apply for membership, but at the same time, the court may frown upon the Cooperative not providing enough time to allow the beneficiary to apply once learning of the share.

The key point to note is that although the will provides for "ahead of the line" privileges regarding applying for membership, it does not guarantee membership. The 60-day time frame is legally strong because a longer wait may detrimentally impact the Cooperative. The Cooperative would have to decide if they would permit a accommodation of the beneficiary who learns later of his inheritance, or provide an exception in their bylaws for this circumstance to ensure the beneficiary is provided a opportunity to apply after they are made aware of the inheritance.

#### **Scenario 2: Unnamed and Unknown Heir**

Here, a potential heir is unknown by the Cooperative and will be determined in accordance with probate process, which is likely greater than 90 days.

**Membership and Occupancy Rights.** Given that the bylaws only provide 60-day period for applying for membership, the intestate inheritor may not access membership unless permitted by the Cooperative after the 60-day deadline.

**Membership Share Rights.** Pursuant to Chapter 3 of the D.C. Code, an heir is legally entitled to the property of an intestate decedent. According to the timeline associated with probate, it may be

well beyond 90 days before an heir is established. Given there is a 60-day timeline for membership, the cooperative may sell or purchase the membership.

**Costs.** The responsibility for the shares in first two months after the death of the decedent belongs to the possible heir. After the 60-day application timeline for membership has passed, the next month is a pivotal time for the decedent's estate. The Cooperative can choose to sell the shares after the 90-day period has passed if they have not been in communication with possible heirs. After that 90-day period, the Cooperative will incur costs upon itself because the time frame that allows them to wait for the possible Heir has passed.

**Additional Considerations.** If the Cooperative decides to create a stipulation to add to their bylaws that would have the members identify possible future beneficiaries of their shares, it would behoove them to hire a lawyer to evaluate the wording to ensure it does not conflict with the current transfer process. Also, it is important to note that the naming through the bylaws would not replace a valid will. Unless the will has no mention of property interests or does not provide a name for whom should receive the proceeds from the membership shares, the addition in the bylaws of a possible beneficiary could prove useful after a member passes.

### Scenario 3: Roommate

Here, the decedent has a roommate as named on their proprietary lease who is not a member of the cooperative at the time of the member's death.

There is no section in the bylaws that explicitly addresses this issue nor permits the roommate to apply for membership. The roommate can, at the discretion of the Cooperative, apply for membership upon the death of the member in the same process as other potential members, which is outlined in the bylaws in Section 8 (A) & (B).

**Costs.** Until the Cooperative decides whether or not the roommate's application is approved, the Cooperative can 1) allow the roommate to remain in the unit and continue paying the monthly bills until they render a decision on the roommate's application or 2) advise the roommate to relocate since he does not have membership at the Cooperative.

**Additional Considerations.** This process does not guarantee automatic approval by the board of directors, but it does allow the board to keep paying current residents without the burden of searching for a new resident to fill an empty unit. The applicant must follow the Cooperatives bylaws regarding the mandatory time frame that must be followed after the member's death for applying.

If a decedent member passes away with a will, and did not leave the unit to the roommate, a Cooperative would need to determine if they would be willing to offer the same opportunity to the roommate to apply for their own membership if there is availability. In some cases, the Probate Process does not identify whether or not there is a will until a month or later after the death of the decedent. And even still, it can take months for a personal representative to be appointed to distribute the estate. Under the DC Probate Process, it is likely that a roommate who may want to apply may not be aware if they are inheriting the shares. They may not be able to apply for

membership of the current shares due to the delay of processing the will and may miss the sixty-day requirement. If the Cooperative would prefer to keep the roommate as a member and has not confirmed that the roommate is the one inheriting the shares, the Cooperative would benefit from offering the roommate membership individually and allowing them to use the current unit if approved. Once the will is processed, they could allow them to receive their shares for the other space and eliminate the debt owed from applying as a new member. But if they do not inherit the shares but still want to remain a resident, this would ensure they are able to remain a resident of the cooperative and pay according to their contract instead.

#### **Scenario 4 – Bank Loan Contract on Membership Share**

Here, a cooperative member passes away, the new member has been approved by the Cooperative, and the Cooperative Membership share/unit is under a loan contract.

**Costs.** The Heir may directly pay off the remaining balance of the loan, seek additional loans to pay off current loan or requesting to assume the loan with the bank. Assumption of the loan would require a decision by the bank or financial institution. The Cooperative has no control over the loan or the loan documents.

#### **Conclusion**

Housing Cooperatives are Communities within a structured apartment like setting. The issues they face after a Cooperative member passes away can be felt on both a sentimental level and financial level. Despite their comradery, the Cooperative itself is a business and requires income in order to sustain itself. By creating additional language in the bylaws and approaching special situations with compassion, a cooperative may provide a more peaceful transition of residency during the difficult time following a Cooperative members death. But in order to avoid extensive carrying charges associated with the transfer of membership and an empty unit, a Cooperative would benefit from making a decision after 60 days after the death whether to allow a late application, accept a beneficiary after they are notified even if later than bylaws set timeframe or encouraging roommates to apply for membership until the probate process has been solidified.

## Applicant Details

First Name **Dahlia**  
 Middle Initial **E**  
 Last Name **Wilson**  
 Citizenship Status **U. S. Citizen**  
 Email Address [wils2687@umn.edu](mailto:wils2687@umn.edu)  
 Address

### Address

Street  
**1111 Washington Ave S, Unit 513**  
 City  
**Minneapolis**  
 State/Territory  
**Minnesota**  
 Zip  
**55415**  
 Country  
**United States**

Contact Phone Number **2402770046**

## Applicant Education

BA/BS From **Cornell University**  
 Date of BA/BS **May 2019**  
 JD/LLB From **University of Minnesota Law School**  
<http://www.law.umn.edu>  
 Date of JD/LLB **May 10, 2024**  
 Class Rank **33%**  
 Law Review/Journal **Yes**  
 Journal(s) **Minnesota Law Review**  
 Moot Court Experience **Yes**  
 Moot Court Name(s) **ABA National Appellate Moot Court Competition**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	No

### **Specialized Work Experience**

### **Recommenders**

Sanderson, Jean  
jsanders@umn.edu  
612-625-5515

Mack, Benjamin  
bmack@charlestoncounty.org

Ryan Gallia, Carrie  
ryang001@umn.edu  
612-624-4100

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

## Dahlia E. Wilson

1111 Washington Ave. S., Unit 513, Minneapolis, MN 55415

[wils2687@umn.edu](mailto:wils2687@umn.edu) | 240-277-0046

The Honorable Judge Jamar K. Walker  
U.S. District Court, Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

April 15, 2023

Dear Judge Walker,

I'm writing to express my interest in a Law Clerk position in Judge Walker's chambers for the 2024–2025 term. I'm currently a second-year law student at the University of Minnesota Law School with a strong passion for the law and public service.

After several years working for three different public defender agencies, I decided I would like to diversify my legal practice. As such, I was fortunate to receive the Richard Mintz Diversity Scholarship from Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, where I will be spending Summer 2023 as a Summer Associate in their Litigation practice. While there, I would like to focus on white collar crime, just as Judge Walker did while he was in private practice. It would be a great honor to be able to learn from the Judge if I had the opportunity to work in his chambers.

I was raised by a Black single father and grew up low-income. I've worked to support myself through undergrad, law school, and concurrently with my summer internships. However, that is exactly what motivates me and ignites my passion: that I have the opportunity to make a difference, no matter how small, and that I have a deep and abiding love for and perspective on the law that is only strengthened by my background.

Additionally, I've been fortunate to have wonderful professional experiences which have reasserted for me why I would like to build my legal career on the East Coast, specifically in the Mid-Atlantic. I am a born and raised DC native (I grew up in NE), and I spent 18 months after undergrad working in Boston Consulting Group's DC office. Clerking for Judge Walker would provide me the extraordinary opportunity to immerse myself in and give back to the DMV community, and to learn from such an accomplished jurist as the Judge.

My success at the University of Minnesota serves to demonstrate my commitment to the practice of law and the skillsets that I believe I can provide as a clerk. I have been fortunate to receive several scholarships for significant commitments to public service and academic excellence, including the Sr. Judge Michael J. Davis award, for whom I will be externing in Spring 2024. I have strong oral argument skills, as demonstrated by my advancement to the quarterfinals of the ABA National Appellate Moot Court Competition. I have also honed my research, writing, and Bluebooking skills from my time on the *Minnesota Law Review*, for which I will be a Head Managing Editor for Vol. 108, and as a law clerk for the University of Minnesota's Office of General Counsel. I strongly believe that my professional and

academic success, as well as my sincere and significant commitment to volunteering and public service, will set me apart as a candidate for the clerkship position.

My résumé, transcript, and a writing sample are included with my application. Professor Sanderson, Ms. Gallia, and Mr. Mack have also submitted letters of recommendation in support of my application. Thank you in advance for your consideration.

Sincerely,  
Dahlia Wilson

## Dahlia E. Wilson

1111 Washington Ave. S., Unit 513, Minneapolis, MN 55415  
[wils2687@umn.edu](mailto:wils2687@umn.edu) | 240-277-0046

### EDUCATION

- University of Minnesota Law School**, Minneapolis, MN *September 2021 – present*
- J.D. candidate, class of 2024
  - GPA: 3.384 (Dean's List x 2 semesters)
  - *Minnesota Law Review*: Staffer (Vol. 107), Head Managing Editor (Vol. 108), Note (in progress)
  - *Honors & Awards*: Leonard E. Lindquist Full-Tuition Scholarship, Robina Public Interest Scholarship, Dean's Distinguished Scholarship, Lathrop GPM Diversity Scholarship Award, ABA National Appellate Advocacy Competition Moot Court Quarterfinalist (#1 Best Brief), Clary Cup Semifinalist for Best 1L Oralist
  - *Extracurricular Involvement*: Treasurer for Criminal Justice League, Service Coordinator for American Constitution Society, Black Law Students Association, OutLaw
  - *Volunteer Activities*: Transcription services for Until We Are All Free Foundation, legal expungement clinic, National Lawyers Guild legal observer, Mississippi Park Connection clean-up volunteer
- Cornell University, College of Agricultural and Life Sciences**, Ithaca, NY *August 2015 – May 2019*
- Bachelor of Science in Environmental Science & Sustainability; Concentration in Resource Economics; Minors in Law & Society and Climate Change
  - *Honors*: Cornell Tradition Scholar for significant commitment to community service, Dean's List

### WORK EXPERIENCE

- Chambers of the Honorable Judge Michael J. Davis, Sr. U.S. District Judge, District of Minnesota**, Minneapolis, MN  
*Judicial Extern (Anticipated)* *Spring 2024*
- Recipient of Minnesota Association of Black Lawyers Honorable Judge Michael J. Davis Scholarship Award, in the form of a scholarship towards law school tuition and a guaranteed judicial externship with Sr. Judge Davis
- Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C.**, Boston, MA  
*Summer Associate (Anticipated)* *Summer 2023*
- Recipient of Richard Mintz Diversity Scholarship award in the form of \$20k towards law school tuition and a guaranteed summer associate position at the firm
- University of Minnesota Office of General Counsel**, Minneapolis, MN  
*Law Clerk (15 hrs/wk)* *October 2022 – present*
- Assisted attorneys in General Counsel's Office in a wide variety of legal practice areas, from real estate transactions to Title IX civil actions, by writing legal memoranda, conducting research, assisting at depositions, and participating in moot courts
- Ramsey County Public Defender Office**, St. Paul, MN  
*Certified Student Attorney (10 hrs/wk)* *October 2022 – present*
- Represented dozens of clients in bail hearings and arraignments for both felony and misdemeanor cases within the Ramsey County court system
- Juvenile Justice & Child Advocacy Clinic**, Minneapolis, MN  
*Certified Student Attorney (10 hrs/wk)* *September 2022 – present*
- Represented clients in Juvenile Traffic Court, from first appearance to case resolution
  - Represented one client in a juvenile delinquency case and assisted in a contested competency hearing
  - Represented one client before the Minnesota Board of Pardons to amend a current Life Sentence Without Parole, and prepared the client for an interview in a PBS television interview about their case

**Charleston County Public Defender Agency, Charleston, SC**

*Law Clerk (40 hrs/wk)*

**May 2022 – August 2022**

- Assisted two Supervising Attorneys with their criminal defense caseloads by writing legal research memoranda, drafting motions to dismiss, conducting investigations, interviewing clients, and assisting at trial

**Publix Grocery Store, Charleston, SC**

*Customer Service Manager (30 hrs/wk)*

**May 2022 – August 2022**

- Managed a rotating staff of two dozen employees in front-of-house customer service activities, including restock orders, lottery, cashiering, cleaning, and financial management

**Alaska Public Defender Agency, Fairbanks, AK**

*Case Manager (50 hrs/wk)*

**October 2020 – August 2021**

- Maintained caseload of 100+ Agency clients to connect them with social services in the local community, and to address non-legal barriers to facilitate clients' successful reintegration into their communities

**Mid-Atlantic Innocence Project, Washington, DC**

*Board Fellow (10 hrs/wk)*

**October 2019 – July 2020**

- Created and maintained a database of 1,000+ applications from currently incarcerated people seeking assistance from the Innocence Project, in order to streamline the case review and approval process for potential DNA exonerations

**Boston Consulting Group, Washington, DC**

*Associate (70 hrs/wk)*

**June 2019 – October 2020**

*Summer Intern (50 hrs/wk)*

**June 2017 – August 2017, June 2018 – August 2018**

- Advised Retail and Public Sector clients on strategic and operational challenges. Select case experience includes:
  - Parsed big data using Alteryx, Excel, and Tableau to identify trends in consumer behavior and growth, and synthesized the analysis into daily PowerPoint presentations that were delivered to executive-level clients
- Led planning team for Black History Month in the DC office to develop content & engagement opportunities, including dinners, speaker series, and weekly educational materials delivered electronically
- Served as Recruitment Specialist and mentor for BCGers within Black+Latinx, Pride, and Women cadres

**SKILLS AND INTERESTS**

**Skills:** Oral Advocacy, Legal Research & Writing, Public Speaking, Excel (Expert), Tax Preparation, Tutoring

**Interests:** Scuba Diving, Biking, Crosscountry Skiing, Civil Rights, Civil Litigation, Criminal Defense, Appellate

University of Minnesota Unofficial Transcript

Name : Burns-Wilson,Dahlia E  
Student ID : 5752657  
Birthdate : 3 - 29

Print Date: 04/16/2023

MOST RECENT PROGRAMS

Campus : University of Minnesota, Twin Cities  
Program : Law School  
Plan : Law J D  
Degree Sought : Juris Doctor

Course	Description	Attempted	Earned	Grade	Points
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LAW 6219	Evidence	3.00	0.00		0.000
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LAW 6249	Evidence Drafting	1.00	0.00		0.000
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LAW 6650	Advanced Administrative Law	3.00	0.00		0.000
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LAW 7048	Moot Court Competition Team	1.00	0.00		0.000
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Course Topic:	ABA Moot Court				
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LAW 7102	Law Review: Research & Writing	1.00	0.00		0.000
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LAW 7624	Corporate Externship Fid Plcmt	2.00	0.00		0.000
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LAW 7675	CL: Child Advocacy & Juvenile	3.00	0.00		0.000
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TERM GPA :	0.000	TERM TOTALS :	14.00	0.00	0.00	0.000
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Course	Description	Attempted	Earned	Grade	Points
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LAW 6001	Contracts	4.00	4.00	B	12.000
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LAW 6002	Legal Research & Writing	2.00	2.00	P	0.000
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LAW 6005	Torts	4.00	4.00	A-	14.668
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LAW 6006	Civil Procedure	4.00	4.00	B+	13.332
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LAW 6007	Constitutional Law	3.00	3.00	B	9.000
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TERM GPA :	3.267	TERM TOTALS :	17.00	17.00	15.00	49.000
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Course	Description	Attempted	Earned	Grade	Points
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LAW 6002	Legal Research & Writing	2.00	2.00	P	0.000
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LAW 6004	Property	4.00	4.00	A-	14.668
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LAW 6009	Criminal Law	3.00	3.00	A-	11.001
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LAW 6013	Law in Practice: 1L	3.00	3.00	P	0.000
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LAW 6018	Legislation and Regulation: 1L	3.00	3.00	A-	11.001
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TERM GPA :	3.667	TERM TOTALS :	15.00	15.00	10.00	36.670
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Course	Description	Attempted	Earned	Grade	Points
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LAW 6100	Taxation I	3.00	3.00	B+	9.999
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LAW 6665	PR - Government	3.00	3.00	B+	9.999
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LAW 6814	Racketeering and the RICO Act	2.00	2.00	B	6.000
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LAW 7048	Moot Court Competition Team	1.00	0.00	X	0.000
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Course Topic:	ABA Moot Court				
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LAW 7102	Law Review: Research & Writing	1.00	0.00	X	0.000
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LAW 7675	CL: Child Advocacy & Juvenile	4.00	0.00	X	0.000
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TERM GPA :	3.250	TERM TOTALS :	14.00	8.00	8.00	25.998
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Course	Description	Attempted	Earned	Grade	Points
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LAW 6100	Taxation I	3.00	3.00	B+	9.999
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LAW 6665	PR - Government	3.00	3.00	B+	9.999
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LAW 6814	Racketeering and the RICO Act	2.00	2.00	B	6.000
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LAW 7048	Moot Court Competition Team	1.00	0.00	X	0.000
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## UNIVERSITY OF MINNESOTA

*Twin Cities Campus**Law Clinic  
Law School**190 Mondale Hall  
229-19<sup>th</sup> Avenue South  
Minneapolis, MN 55455**Office: 612-625-5515  
Fax: 612-624-5771*

January 25, 2023

**Re: Application of Dahlia E. Wilson**

Dear Judge or Justice:

I write to enthusiastically recommend Dahlia E. Wilson for a position as a law clerk in your chambers. Dahlia has been an excellent student in our clinical program and in the Law School. I can say with certainty that she would be an asset to your chambers.

Dahlia is a student in the Child Advocacy and Juvenile Justice Clinic, which I have taught for many years. The Clinic is a full-year offering in which students represent indigent clients in family law, juvenile delinquency, child welfare, Special Immigrant Juvenile Status and post-conviction matters. The Clinic has two primary components: supervised live-client representation and a synchronous seminar.

As a student in the Clinic, Dahlia has represented clients in juvenile traffic court from first appearance to resolution, represented a juvenile delinquency client in a contested competency hearing, and represented one client convicted as a juvenile before the Board of Pardons seeking to amend a life without parole sentence.

Dahlia's performance in each of these cases and the Clinic more generally has been superb. She is intelligent, thoughtful and poised. She is always prepared for class and her participation in class demonstrates her familiarity with the reading. She is insightful in her comments. Her work product, including her written work product, is excellent. She is extremely diligent and takes ownership of every aspect of her cases.

One of the highlights of her work this year was representation of an alleged juvenile traffic offender alleged to have committed a juvenile traffic offense that potentially exposed the juvenile to a variety of consequences, including substantial restitution. Dahlia interviewed the client, reviewed all Body Worn camera video of the accident, and went to the scene of the accident. As a result Dahlia was able to present a strong argument to the prosecution that no offense had been committed. The prosecutor agreed with Dahlia's argument and dismissed the case.

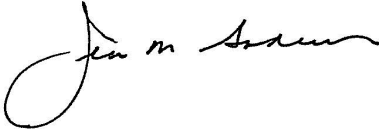
Dahlia's more general law school performance has also been excellent. She is in the top 1/3 of the class and is a staff member of the Minnesota Law Review. Her resume details numerous volunteer activities and awards. She clearly is committed to public service and the representation of the underrepresented.

Additionally, Dahlia is pleasant, unassuming and interested in learning. She gets along with everyone in the Clinic and is regularly sought out for advice by her fellow clinic students.

I believe she is at the start of what will be an exceptional legal career and I recommend her to you highly.

Please feel free to contact me at (612) 625-0592 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean m Sanderson". The signature is fluid and cursive, with a large initial "J" and a stylized "m".

Jean Sanderson  
Clinic Professor

*Berkeley County*  
219 N. Hwy. 52, Suite E  
P.O. Box 1687  
Moncks Corner, SC 29461  
(843) 899-2777  
(843) 899-2701 Fax  
David P. Schwacke  
Berkeley County Public Defender

**Ninth Circuit Public Defender**  
*Berkeley & Charleston Counties*

Cameron J. Blazer, Circuit Defender  
publicdefender@charlestoncounty.org  
(843) 958-1850

*Charleston County*  
O.T. Wallace Building  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401-2214  
(843) 958-1850  
(843) 958-1860 Fax  
Megan S. Ehrlich  
Charleston County Public Defender

January 27, 2022

RE: Letter of Recommendation for Dahlia Wilson

Dear Judge,

I highly recommend Dahlia Wilson for a clerkship. She has a strong work ethic, an enjoyable personality, and a passion for the law, especially as it applies to indigent defense.

Overall, Dahlia probably helped me with about six different complex criminal cases at the Charleston County Public Defender's office in South Carolina as a clerk in the summer of 2022. Some of the clients were facing as much as life in prison, and I trusted Dahlia with confidential information for the purpose of meeting with the clients, experts, and other attorneys in addition to reviewing sensitive discovery. These were high stress, emotional matters that sometimes reached a breaking point in terms of client relations. Yet, Dahlia always maintained an optimistic, supportive, and respectful attitude toward me and about her assignments. She was always professional and clearly had a concern for the clients' well-being and their rights under the law. In fact, Dahlia's cheerful demeanor and youthful perspective was refreshing and thought provoking for me even in times of exhaustion and confusion.

Specifically, Dahlia helped me on a couple gruesome murder cases. One case involved a client who allegedly bludgeoned his roommate to death with a baseball bat and another one involved a client who allegedly shot a woman in the head at close range with a 45-caliber pistol. Dahlia assisted me in trial strategy preparations, communications with experts, crime scene investigation, research, and drafting motions. These assignments must have been incredibly difficult, considering the circumstances and stakes in the cases associated with them. The research projects would have been a struggle for many practicing criminal defense lawyers. However, Dahlia handled the difficulty with composure and compassion, even when I pushed her hard to improve and expedite her work product. She provided me with well researched memos on the self-defense caselaw in South Carolina, which is complicated given the contradictory statutory and common law components of it. Furthermore, Dahlia communicated directly with the firearm forensics and blood spatter experts hired for the cases, and she even went so far as to contact the attorneys who appealed and argued one of the important cases found in her research to better understand the South Carolina Supreme Court's confusing ruling.

I also handle a lot of cases involving special victims and sex offenders in Charleston, and Dahlia and I would regularly discuss the clients and how society treats them. I found Dahlia's opinions to be poignant and resourceful, especially in relation to issues typically sensitive to young women, like statutory rape and child pornography. She really strived to give our clients the best

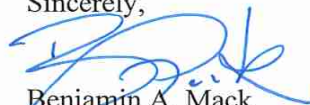
representation possible, trying to understand them and their troubled pasts. Very few attorneys can stomach representing sex offenders, especially those facing charges related to child pornography, and as a result, I have the highest regard for Dahlia and her ability to professionally conduct herself in dealing with psychologically challenging and morally difficult cases.

In many other instances, Dahlia went beyond the call of duty to provide me with a work product that I would have never had the time or ability to generate myself, and I would sometimes ask Dahlia to tackle projects I have assigned to young attorneys in the past. In other words, I often took the time to teach Dahlia the advanced legal components of a case for a project, rather than simply have a young attorney work on it, because I thought she would do a better job.

For example, Dahlia took on a research assignment on criminal procedure in South Carolina as it relates to the grand jury system and discovery in criminal cases. Several young attorneys and law students before her either were uninterested in the progressive nature of the issue or were unwilling to do the extensive work, likely failing to see how it could benefit them by building their resume. Yet, Dahlia took on the ambitious project with few questions asked of me, seeing it as an opportunity to practice for law review, and she exceeded my expectations with her exhaustive and meticulously crafted work product. The goal going forward for me is to use the bulk of Dahlia's comments and cite checking to generate a much-needed law review article on the procedural issue for publication in 2023.

Finally, on a personal note, I am proud to be a mentor for Dahlia, and I hope she will not forget me on her path to becoming a successful attorney. I always enjoyed chatting with Dahlia about non-legal issues and her ambition in life, finding her to be a genuinely kind and interesting person. Dahlia and I had several deep conversations about the struggles of being a lawyer, but she surprisingly never expressed any reservations about it. Also, I was always fascinated by her perspective given her background and interest in social services and exploring Alaska. Without a doubt, Dahlia will provide you with a unique insight into the law, given her personality and her hands-on experience in dealing face-to-face with individuals accused of serious crimes. Put simply, Dahlia will make a great attorney one day. My hope is that someday she will become a public defender.

Sincerely,



Benjamin A. Mack  
Assistant Public Defender  
Charleston, South Carolina

April 18, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

It is my pleasure to submit a letter of recommendation in support of Dahlia Wilson. Dahlia has worked under my supervision in the University of Minnesota's Office of the General Counsel as a capable law clerk since late 2022.

When Dahlia applied for a position in the Office of the General Counsel, we were struck immediately by both her work ethic and her high achievement. It is rare to encounter a law student pursuing a position on the Minnesota Law Review at the same time that she is competing on a national moot court team, not to mention taking a rigorous load of 2L coursework while volunteering. Notably, where another student might be stretched too thin, Dahlia thrives in an environment like this, maintaining a high grade point average and ascending to a leadership role on the Law Review. And Dahlia has worked to explore various aspects of the profession as well, working in two public defender offices as well as a juvenile justice clinic at the University of Minnesota Law School and, of course, a clerkship in the Office of the General Counsel.

Our office does not hire junior attorneys, so we rely on our law clerks to research and analyze complex legal issues and draft memoranda ready—with some revision, of course—to be filed in court. Dahlia regularly undertook in-depth analysis of legal issues. Consistent feedback from attorneys across the office, who cover a broad range of litigation and transactional practice areas, has shown Dahlia to be responsive to assignment requests, providing timely and useful work product that needed little to any revision. I find that she always asks incisive questions when receiving a new task, questions that help her identify the specific issue to be researched and the dispositive facts to be considered. I look forward to collaborating with her over the next several months on a brief to the U.S. Court of Appeals for the Eighth Circuit.

I would be remiss if I failed to note that Dahlia is an excellent colleague. Our office is small and demands collegiality. Although Dahlia joined us mid-school year, she fit into our culture quickly and well, collaborating with our other clerk and our team of attorneys, while demonstrating an ability to work independently. I appreciate Dahlia's energy, her efficiency, and her thoughtfulness. I am confident that she would be an asset to your chambers.

Respectfully submitted,

Carrie Ryan Gallia  
Senior Associate General Counsel

Carrie Ryan Gallia - ryang001@umn.edu - 612-624-4100

**Dahlia E. Wilson**

1111 Washington Ave. S., Unit 513, Minneapolis, MN 55415

[wils2687@umn.edu](mailto:wils2687@umn.edu) | 240-277-0046

**RE: Writing Sample in Support of My Application**

Dear Judge Walker,

Attached is a writing sample in support of my application for a position as a Law Clerk in Judge Walker's chambers for the 2024–2025 term. This writing sample is a draft of a motion that I wrote for my supervising attorney while I was a Law Clerk at the Charleston County Public Defender Agency. I have received permission to use this unedited writing sample and have replaced all identifying names and information to maintain confidentiality.

In this piece, my Supervising Attorney asked me to draft a motion for entitlement to immunity from prosecution based on a theory of self-defense. I analyzed the case law and statutory language in order to provide the strongest argument for why the defendant was entitled to immunity from prosecution under the applicable South Carolina law. I believe that this sample represents some of my best, most concise, and clearest writing.

Thank you in advance for your consideration,

Dahlia Wilson

TO: [XXX]  
FROM: Dahlia Wilson  
DATE: Monday, June 27, 2022  
RE: Draft for a *Duncan* Motion of Entitlement to Immunity Under a Theory of Self-Defense

## **I. Statement of Facts**

[UNDISPUTED FACTS SECTION]

## **II. Entitlement to Immunity**

Defendant is entitled to immunity from prosecution under the Protection of Persons and Property Act (“Act”), which “provides immunity from prosecution if a person is found to be justified in using deadly force under the Act.” *State v. Curry*, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013) (citing S.C. Code Ann. §§ 16-11-410 to -450). “[U]pon motion of either party, [immunity] must be decided prior to trial.” *State v. Duncan*, 392 S.C. 404, 410, 709 S.E.2d 662, 665 (2011). “[T]he proper standard for the circuit court to use in determining immunity under the Act is a preponderance of the evidence.” *Id.* at 411, 709 S.E.2d at 665. Alternatively, this Court must find that Defendant raised a proper affirmative defense of self-defense such that he would be found not guilty at trial. “[C]urrent law requires the State to disprove self-defense, once raised by the defendant, beyond a reasonable doubt.” *State v. Wiggins*, 330 S.C. 538, 544, 500 S.E.2d 489, 492–93 (1998).

### **A. Evidentiary Standard**

Defendant’s case shows beyond a preponderance of the evidence that he acted in self-defense at the time of the alleged incident. “Consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant’s entitlement to the Act’s immunity. This includes all elements of self-defense, save the duty to retreat.” *Curry*, 406 S.C. at 371, 752

S.E.2d at 256. “A ‘preponderance of the evidence’ stated in simple language, is that evidence which convinces as to its truth.” *Frazier v. Frazier*, 228 S.C. 149, 168, 89 S.E.2d 225, 235 (1955).

“Some cases in which a defendant seeks immunity under the Act may present a ‘quintessential jury question’ regarding self-defense.” *State v. Cervantes-Pavon*, 426 S.C. 442, 451, 827 S.E.2d 564, 568 (2019); *see also Curry*, 406 S.C. at 372, 752 S.E.2d at 267 (“Appellant’s claim of self-defense presents a quintessential jury question, which, most assuredly, is not a situation warranting immunity from prosecution.”). However, “just because conflicting evidence as to an immunity issue exists does not automatically require the court to deny immunity; the court must sit as the fact-finder at this hearing, weigh the evidence presented, and reach a conclusion under the Act.” *Cervantes-Pavon*, 426 S.C. at 451, 827 S.E.2d at 569. Regardless, there is no conflicting evidence in this case that would nullify Defendant’s entitlement to immunity.

### **B. Establishing Immunity Under the Act**

The Protection of Persons and Property Act, enacted in 2006, is the controlling law on self-defense in South Carolina. The legislature’s stated goal was to provide “a true immunity, and not just an affirmative defense.” *Duncan*, 392 S.C. at 410, 709 S.E.2d at 665. The Act itself states that “it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and *attackers* without fear of prosecution or civil action for acting in defense of themselves and others.” § 16-11-420(B) (emphasis added). Moreover, “[t]he General Assembly finds that persons residing in or visiting this State have a right to expect to remain *unmolested* and safe within their homes.” § 16-11-420(D) (emphasis added).

Four necessary elements of self-defense must be satisfied for the defendant to be justified in using deadly force under the Act. § 16-11-450.

1) The defendant must be without fault in bringing on the difficulty. *State v. Davis*, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984).

2) The defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. *Id.*

3) A reasonably prudent man of ordinary firmness and courage would have entertained the same belief of imminent danger. *Id.*

4) The defendant must have had no other probable means of avoiding the danger than to act as he did in this particular instance. (If the defendant was on his own premises, he would have no duty to retreat before acting.) *Id.*

Section 16-11-440(A) establishes a presumption of reasonable fear of imminent peril or death so as to satisfy element no. 2 of self-defense if certain circumstances are met. § 16-11-440(A). The presumption applies if:

- 1) “[T]he person...against whom the deadly force is used is in the process of unlawfully and forcefully *entering*...a dwelling[ or] residence.” § 16-11-440(A)(1) (emphasis added).
- 2) “[The person] who uses deadly force knows or has reason to believe that an unlawful and forcible *entry* or unlawful and forcible *act* is occurring or has occurred.” § 16-11-440(A)(2) (emphasis added).

However, the presumption established in Subsection A does not apply if the person:

- 1) “[A]gainst whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.” § 16-11-440(B)(1).
- 2) “[W]ho uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity.” § 16-11-440(B)(3).

In interpreting Subsection 16-11-440(A), the Supreme Court held that a victim must be “in the process of unlawfully and forcefully entering a dwelling or residence [as] a prerequisite that clearly must be met before the presumption applies.” *State v. Scott*, 424 S.C. 463, 474, 819 S.E.2d 116, 121 (2018) (internal quotation marks omitted). Victim was not in the process of entering or trespassing in Defendant’s home because he was a lawful guest.

Subsection C states that “[a] person who is not engaged in an unlawful activity and who is attacked in another place *where he has a right to be* . . . has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself.” § 16-11-440(C) (emphasis added).

Defendant was not engaged in any illegal activity at the time of the incident. That fact alone, however, does not preclude the existence of a reasonable fear of danger. Therefore, Subsection A does not apply, and Defendant is defaulted in Subsection C. *Curry*, 406 S.C. at 370, 752 S.E.2d at 266 (“Because [Victim] was a social guest and rightfully in the apartment, subsection (A) is inapplicable to Appellant, and he is therefore defaulted into subsection (C), which deals with the use of force by one who is attacked in another place where he has a right to be.”).

Defendant was without fault in bringing on the difficulty because the altercation arose from Victim antagonizing Defendant over Defendant's supposed failure to take care of Victim's dog. Victim was known to carry a gun, and Defendant had personally seen and handled that gun in the past; Defendant also knew that Victim had the gun on his person that day. This suffices to establish that Defendant had an actual and reasonable belief that he was in imminent danger of being attacked with a deadly weapon under Subsection C. Finally, Defendant had no other means of avoiding the altercation because Victim was directly in front of him and was actively reaching for his gun that was stashed in his chair. Defendant had to strike Victim twice in order to escape, which ultimately resulted in Victim's death. Defendant was fully entitled to use such lethal force under the Act.

### III. Analysis

#### A. Without Fault in Bringing on Difficulty

The first element of self-defense requires that the defendant is without fault in bringing on the difficulty. Defendant was without fault in this instance, and was similarly without fault in all previous arguments he and Victim had engaged in, which were numerous.

In *State v. Amburgey*, this Court stated . . . [t]he rule has long been established in this State that evidence of other specific instances of violence on the part of the deceased are not admissible unless they were directed against the defendant, or if directed against others, were so closely connected in point of time or occasion with the homicide as reasonably to indicate the state of mind of the deceased at the time of the homicide, or to produce reasonable apprehension of great bodily harm.

*State v. Brown*, 321 S.C. 184, 187, 467 S.E.2d 922, 923–24 (1996) (citing *Amburgey*, 206 S.C. 426, 429, 34 S.E.2d 779, 780 (1945)).

Defendant's former girlfriend testified that the week prior to the fatal incident, Victim had threatened to shoot and kill both of them. This was a pattern of behavior that extended over the several months that Victim was using Defendant's home as a hub for drug dealing.

"A person has the right to act on appearances, even if the person's belief is ultimately mistaken." *State v. Fuller*, 297 S.C. 440, 443–44, 377 S.E.2d 328, 331 (1989). In *Fuller*, "Petitioner testified he did not see what [Victim] was reaching for when he [Petitioner] fired the shots, but because [Victim] continued advancing after seeing the gun, Petitioner believed he was reaching for a deadly weapon." *Id.* at 501, 716 S.E.2d at 102. Similarly here, "[t]here is uncontroverted testimony that [Defendant] acted upon the appearance that [Victim] had a deadly weapon," and indeed that weapon was found by Defendant under Victim's body. *Id.* at 502, 716 S.E.2d at 102.

### **B. Reasonable Fear of Imminent Peril**

Defendant satisfied the second element of self-defense because he had a reasonable fear that Victim would shoot him after Victim assaulted him verbally and threatened him.

Defendant does not fall within 16-11-440(A)'s presumption of reasonable fear, which only applies "if the person ... against whom the deadly force is used is in the process of unlawfully and forcefully *entering*, or has unlawfully and forcibly entered a dwelling." § 16-11-440(A)(1) (emphasis added). All parties admit that Victim was a social guest in Defendant's house, not a trespasser.

Section B states that "[t]he presumption provided in subsection (A) does not apply if the person ... against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling ... including, but not limited to, an owner, lessee, or titleholder." § 16-11-

440(B)(1); *State v. Jones*, 416 S.C. 283, 292, 786 S.E.2d 132, 137 (2016) (“[T]he presumption of subsection A does not apply if Victim has an equal right to be in the dwelling.”) (citing *Curry*, 406 S.C. at 370, 752 S.E.2d at 266). At no point in time was Victim a party to the lease, nor did he pay rent.

In South Carolina, courts have used various factors to determine if a party has a possessory or legal interest in a property as a lessee, including “whether he was an overnight guest at the home,” “whether he kept a change of clothes at the home,” “whether he engaged in typical domestic activities at the home, or whether he treated it as a commercial establishment,” or “whether he paid rent.” *State v. Robinson*, 410 S.C. 519, 528–30, 765 S.E.2d 564, 569–70 (2014). Numerous parties have said that Victim primarily used [ADDRESS] as a venue for drug-dealing. Defendant said that Victim never spent the night and would “leave and change clothes and come back.” The landlord of the property stated that he would never have allowed Victim to be on the lease and that he would rather the property stand empty than rent to him. Victim does not fit the definition of a lessee or a person with legal interest in the [ADDRESS] property, nor was he attempting to enter the property at the time of the incident as he was already invited inside as a guest. As such, only Subsection C of the Act applies.

In *Jones*, the defendant got into a physical altercation with her boyfriend at the apartment they both shared. He attacked her violently multiple times, before she grabbed a knife as protection while she was trying to get out of the apartment. He grabbed her one last time before she escaped, so she stabbed him once in the chest. In that case, as here, “there [was] no dispute that [Victim] had an equal right to be in the apartment. . . . Thus, as recognized by this Court in *Curry*, Jones was defaulted into seeking immunity under subsection (C), which deals with the use of force by one who is attacked in another place where he has a right to be.” *Jones*, 416 S.C.

at 292, 786 S.E.2d at 137. Similarly in *Grantham*, the Court held “that under the circumstances related here, both living in the home . . . the law imposes no duty upon one to retreat in order to avoid the other, but may stand his, or her, ground if without fault in bringing on the difficulty.” *State v. Grantham*, 224 S.C. 41, 45–46, 77 S.E.2d 291, 293 (1953).

Subsection C states that “[a] person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be . . . has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary.” § 16-11-440(C). Defendant had a clear right to be in the home, and he was not engaged in any unlawful activity. Victim instigated the incident, and as such, under Subsection C, Defendant was justified in using reactive force to the threat of Victim’s gun and had no duty to retreat because he had a reasonable fear of imminent peril. Any man of reasonable firmness would similarly have believed himself to be in imminent danger if a known drug dealer were constantly threatening to shoot him, regularly carried a gun on his person, and was in the process of reaching for that gun.

### **C. No Other Probable Means of Avoiding Danger**

“A defendant is not required to retreat if he has ‘no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in [the] particular instance.’” *State v. Dickey*, 394 S.C. 491, 502, 716 S.E.2d 97, 102 (2011) (citing *Wiggins*, 330 S.C. at 545, 500 S.E.2d at 493)).

In *Dickey*, Petitioner was a security guard at an apartment building who was trying to oust two drunk and aggressive men from the premises. *Id.* at 502, 716 S.E.2d at 103. Petitioner was found “not to be at fault in bringing on the harm” because at least one of the men had “the

clear intent to assault him and . . . was undeterred at the sight of Petitioner's gun." *Id.* Petitioner was unable to turn his back without being attacked from behind and had no others means of escape, *id.*, so he was entitled to shoot and kill Victim in self-defense. *Id.* at 503, 716 S.E.2d at 103.

Defendant had been repeatedly threatened by Victim for months on end. Defendant had taken to carrying a baseball bat around with him in order to both protect himself from Victim and from any others who might attempt to break into his house, which was a reasonable fear given Victim's use of the house for drug-dealing. At the moment of the fatal altercation, Victim was in the process of reaching for his gun. "Once the right to fire in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act." *State v. Starnes*, 340 S.C. 312, 322, 531 S.E.2d 907, 913 (2000). Defendant had no other means at hand to protect himself from being shot other than to incapacitate Victim with the bat before Victim had time to pull the gun. As in *Dickey*, if Defendant had turned his back to run away, Victim easily would have shot him in the back from a close range.

#### IV. Conclusion

The exhibits and the law are clear that Defendant has satisfied all four elements of self-defense and is thus qualified for immunity from prosecution under South Carolina law. Defendant was the sole lessee for [ADDRESS], and Victim was a guest with no legal interest in the property, as a lessee or otherwise. Defendant was without fault in bringing on the altercation, and Victim's threats towards Defendant had been escalating over the weeks. Defendant credibly and reasonably believed that he was in imminent danger of being shot when Victim threatened to

kill him and got up to reach for his gun that was stashed inside his chair. Any reasonable person would have thought the same, and numerous other parties who knew Victim spoke to the same fear that they held of him. The Act is clear that within his own home, Defendant had the right to react with force, including deadly force, in order to protect himself. The Court must find that Defendant is immune from prosecution under the Act for this charge.

## Applicant Details

First Name **Michelle**  
 Last Name **Wolk**  
 Citizenship Status **U. S. Citizen**  
 Email Address [mwolk@umich.edu](mailto:mwolk@umich.edu)  
 Address

**Address**  
**Street**  
**6 Weeping Cherry Lane**  
**City**  
**Commack**  
**State/Territory**  
**New York**  
**Zip**  
**11725**  
**Country**  
**United States**

Contact Phone Number **5165805162**

## Applicant Education

BA/BS From **George Washington University**  
 Date of BA/BS **January 2021**  
 JD/LLB From **The University of Michigan Law School**  
<http://www.law.umich.edu/currentstudents/careerservices>  
 Date of JD/LLB **May 3, 2024**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **Michigan Law Review**  
**Michigan Journal of Gender & Law**  
 Moot Court Experience **Yes**  
 Moot Court Name(s) **Henry M. Campbell Moot Court Competition**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/  
Externships                      **No**  
Post-graduate Judicial  
Law Clerk                        **No**

### **Specialized Work Experience**

#### **Recommenders**

Fischer, Harriet  
harriet.fischer@cwlc.org  
323-951-9276

Litman, Leah  
lmlitman@umich.edu  
734-647-0549

Kornblatt, Kerry  
kkorn@umich.edu

Deacon, Daniel  
deacond@umich.edu  
734-764-5571

**This applicant has certified that all data entered in this profile and  
any application documents are true and correct.**

**Michelle Wolk**

6 Weeping Cherry Lane, Commack, NY 11725  
516.580.5162 • MWolk@umich.edu

June 12, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker,

I am a rising third-year student at the University of Michigan Law School, and I am writing to apply for a clerkship in your chambers for your next available term. I am particularly excited about the opportunity to learn from your experience not only as a judge, but also as a public servant, as I am committed to a public interest career.

From starting my own business at age eleven to financing my own undergraduate education, I have always understood the value of hard work. To afford my undergraduate tuition, I worked part-time as an Associate at Springboard Enterprises, an organization dedicated to supporting women entrepreneurs. This job allowed me to pursue my passion for women's rights while working collaboratively with others, and I was proud to exceed some of the organization's goals while I was there. Before I joined the team, Springboard had never achieved its target for the number of articles they wanted to include in a blog column. Under my tenure, their target was not just reached, but doubled.

Because I was financing my own higher education, I worked hard and took extra credits to graduate a semester early. Springboard then hired me into a full-time position as Women's Health Program Manager, a position I held until I started law school.

I came to law school to continue this work, and I have. My work experiences and activities have allowed me to center civil rights and access to justice and develop my legal skills. I earned honors in my legal research and writing class, received the award for best preliminary respondent brief in the Campbell Moot Court competition, and was selected to serve as an Articles Editor for the *Michigan Law Review*. Given the opportunity, it would be my honor to bring my skills, my hard work, and my passion to your chambers.

I have attached my resume, law school transcript, and a writing sample for your review. Letters of recommendation from the following individuals are also attached:

- Professor Leah Litman: lmlitman@umich.edu, (734) 647-0549
- Professor Daniel Deacon: deacond@umich.edu, (734) 764-5571
- Professor Kerry Kornblatt: kkorn@umich.edu, (734) 647-8595
- Harriet Fischer: harriet.fischer@cwlc.org, (323) 951-9276

Thank you for your time and consideration. I look forward to hearing from you.

Warmest Regards,

Michelle Wolk

## Michelle Wolk

6 Weeping Cherry Lane, Commack, NY 11725  
516.580.5162 • MWolk@umich.edu

### EDUCATION

#### UNIVERSITY OF MICHIGAN LAW SCHOOL

*Juris Doctor*, GPA: 3.938 (historically top 3%)

Ann Arbor, MI

Expected May 2024

Journals: *Michigan Law Review* (Articles Editor)

*Michigan Journal of Gender and Law* (Student Scholarship Editor)

Moot Court: Campbell Moot Court (Quarter-Finalist & Best Preliminary Respondent Brief)

Honors: Dean's Scholarship Recipient

Certificate of Merit for Contracts (highest grade in course)

Research: Research Assistant for Professor Litman (researching abortion and statutory interpretation)

Activities: Women's Law Students Association (Programming Chair)

Peer Tutor

Women Also Know Law

Pro Bono: Civil Rights Litigation Clearinghouse (Project Manager)

#### GEORGE WASHINGTON UNIVERSITY, COLUMBIAN COLLEGE OF ARTS AND SCIENCES

Washington, DC

*Bachelor of Arts* in Political Science and Minor in Law & Society, *summa cum laude*

January 2021

Honors: Presidential Academic Scholarship Recipient & John A. Morgan Prize Recipient

Activities: No Lost Generation; University Honors Program; Phi Alpha Delta

Publication: "Title VII's Minimum Threshold Has a Maximum Impact . . ." *Columbia Undergraduate Law Review*

### EXPERIENCE

#### CENTER FOR REPRODUCTIVE RIGHTS

Washington, DC

*United States Federal Policy Law Intern*

June 2023 – August 2023

#### WOMEN LAWYERS ON GUARD

Virtual

*Intern*

September 2022 – Present

- Write comments on agency regulations, including Section 1557 of the ACA and abortion care for veterans
- Identify cases in which Women Lawyers On Guard should join or lead an amicus brief

#### PLANNED PARENTHOOD FEDERATION OF AMERICA

Virtual

*Litigation and Law Extern, Policy Team*

January 2023 – April 2023

- Drafted memos about constitutional and statutory issues regarding crisis pregnancy centers
- Analyzed state codes and newly introduced bills to identify model language and assessed new feasible claims and avenues for protecting access to reproductive healthcare
- Participated in weekly team strategy meetings to discuss and explore possible litigation opportunities

#### CALIFORNIA WOMEN'S LAW CENTER (CWLC)

El Segundo, CA

*Legal Intern*

May 2022 – July 2022

- Drafted white paper on telehealth procedures, depublishation request for California Court of Appeal opinion, and support letters to the California legislature on bills that would expand abortion access
- Developed training materials about Title IX and gender equity in sports for qualified legal service providers
- Conducted data analysis about crisis pregnancy centers
- Evaluated schools for Title IX compliance with respect to the rights of pregnant and parenting students

#### SPRINGBOARD ENTERPRISES

Washington, DC

*Women's Health Program Manager*

January 2021 – July 2021

- Lobbied Congress on women's health issues by creating a legislative agenda, reaching out to constituents, meeting with congressional staffers, organizing a congressional briefing, and leading a coalition

*Associate*

September 2019 – December 2020

- Moderated a blog column by requesting and copyediting posts, publishing articles, and promoting content

### ADDITIONAL

**Volunteer:** Save the Children Sponsor & Pen-Pal (2006 – Present), Associazione Interculturale Universo (2019)

**Interests:** Yoga, extensive travel to over 20 countries across 3 continents, Disney history

Control No: E196724201

Issue Date: 05/31/2023

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# The University of Michigan Law School

## Cumulative Grade Report and Academic Record

Name: Wolk, Michelle  
Student#: 43423310



*Paul R. Johnson*  
University Registrar

Subject	Course Number	Section Number	Course Title	Instructor	Load Hours	Graded Hours	Towards Program	Credit Grade
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### Fall 2021 (August 30, 2021 To December 17, 2021)

LAW	510	002	Civil Procedure	Richard Friedman	4.00	4.00	4.00	A-
LAW	530	001	Criminal Law	JJ Prescott	4.00	4.00	4.00	A
LAW	580	002	Torts	Sherman Clark	4.00	4.00	4.00	A-
LAW	593	008	Legal Practice Skills I	Kerry Komblatt	2.00		2.00	H
LAW	598	008	Legal Pract:Writing & Analysis	Kerry Komblatt	1.00		1.00	H

<b>Term Total</b>				<b>GPA: 3.800</b>	<b>15.00</b>	<b>12.00</b>	<b>15.00</b>	
<b>Cumulative Total</b>				<b>GPA: 3.800</b>		<b>12.00</b>	<b>15.00</b>	

### Winter 2022 (January 12, 2022 To May 05, 2022)

LAW	520	002	Contracts	Gabriel Rauterberg	4.00	4.00	4.00	A+
LAW	540	001	Introduction to Constitutional Law	Leah Litman	4.00	4.00	4.00	B+
LAW	594	008	Legal Practice Skills II	Kerry Komblatt	2.00		2.00	H
LAW	737	001	Higher Education Law	Jack Bernard	4.00	4.00	4.00	A

<b>Term Total</b>				<b>GPA: 3.866</b>	<b>14.00</b>	<b>12.00</b>	<b>14.00</b>	
<b>Cumulative Total</b>				<b>GPA: 3.833</b>		<b>24.00</b>	<b>29.00</b>	

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# The University of Michigan Law School

## Cumulative Grade Report and Academic Record

Name: Wolk, Michelle  
Student#: 43423310



*Paul R. Johnson*  
University Registrar

Subject	Course Number	Section Number	Course Title	Instructor	Load Hours	Graded Hours	Towards Program	Grade
<b>Fall 2022 (August 29, 2022 To December 16, 2022)</b>								
LAW	569	001	Legislation and Regulation	Daniel Deacon	4.00	4.00	4.00	A
LAW	781	001	FDA Law	Ralph Hall	3.00	3.00	3.00	A
LAW	803	001	Advocacy for Underdogs	Andrew Buchsbaum	2.00	2.00	2.00	A
LAW	828	001	Social Justice and the Law	Michelle Crockett	2.00	2.00	2.00	A
LAW	885	004	Mini-Seminar	Bridgette Carr	1.00		1.00	S
			Lawyering While Female	Chavi Nana				
LAW	992	492	Research: Special Projects	Tessa Bialek	3.00	3.00	3.00	A
			Civil Rights Litigation Clearinghouse					
<b>Term Total</b>				<b>GPA: 4.000</b>	<b>15.00</b>	<b>14.00</b>	<b>15.00</b>	
<b>Cumulative Total</b>				<b>GPA: 3.894</b>		<b>38.00</b>	<b>44.00</b>	
<b>Winter 2023 (January 11, 2023 To May 04, 2023)</b>								
LAW	404	001	SexualOrien/GenderID & the Law	Maureen Carroll	2.00	2.00	2.00	A
LAW	669	001	Evidence	Sherman Clark	3.00	3.00	3.00	A
LAW	807	001	Civil Rights Litigation	Nakisha Chaney	3.00	3.00	3.00	A+
LAW	990	005	Part-Time Externship	Amy Sankaran	3.00		3.00	S
LAW	991	801	Part-Time Externship Seminar	Amy Sankaran	1.00	1.00	1.00	A
LAW	992	492	Research: Special Projects	Tessa Bialek	3.00	3.00	3.00	A
			Civil Rights Litigation Clearinghouse					
<b>Term Total</b>				<b>GPA: 4.075</b>	<b>15.00</b>	<b>12.00</b>	<b>15.00</b>	
<b>Cumulative Total</b>				<b>GPA: 3.938</b>		<b>50.00</b>	<b>59.00</b>	

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# The University of Michigan Law School

## Cumulative Grade Report and Academic Record

Name: Wolk, Michelle  
Student#: 43423310



*Paul R. Johnson*  
University Registrar

Subject	Course Number	Section Number	Course Title	Instructor	Hours	Load	Graded Hours	Towards Program	Credit Grade
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Fall 2023 (August 28, 2023 To December 15, 2023)

Elections as of: 05/31/2023

LAW	641	001	Crim Just: Invest&Police Prac	Ekow Yankah	4.00				
LAW	653	001	Employment Discrimination	Zachary Fasman	4.00				
LAW	685	001	Design Fulfilling Life in Law	Bridgette Carr	2.00				
LAW	901	001	Civil Rights Litig Initiative	Vivek Sankaran					
				Michael Steinberg	5.00				

End of Transcript  
Total Number of Pages 3

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## University of Michigan Law School Grading System

### Honor Points or Definitions

Through Winter Term 1993		Beginning Summer Term 1993	
A+	4.5	A+	4.3
A	4.0	A	4.0
B+	3.5	A-	3.7
B	3.0	B+	3.3
C+	2.5	B	3.0
C	2.0	B-	2.7
D+	1.5	C+	2.3
D	1.0	C	2.0
E	0	C-	1.7
		D+	1.3
		D	1.0
		E	0

### Other Grades:

- F Fail.
- H Top 15% of students in the Legal Practice courses for students who matriculated from Spring/Summer 1996 through Fall 2003. Top 20% of students in the Legal Practice courses for students who matriculated in Spring/Summer 2004 and thereafter. For students who matriculated from Spring/Summer 2005 through Fall 2015, "H" is not an option for LAW 592 Legal Practice Skills.
- I Incomplete.
- P Pass when student has elected the limited grade option.\*
- PS Pass.
- S Pass when course is required to be graded on a limited grade basis or, beginning Summer 1993, when a student chooses to take a non-law course on a limited grade basis.\* For SJD students who matriculated in Fall 2016 and thereafter, "S" represents satisfactory progress in the SJD program. (Grades not assigned for LAW 970 SJD Research prior to Fall 2016.)
- T Mandatory pass when student is transferring to U of M Law School.
- W Withdrew from course.
- Y Final grade has not been assigned.
- \* A student who earns a grade equivalent to C or better is given a P or S, except that in clinical courses beginning in the Fall Term 1993 a student must earn a grade equivalent to a C+ or better to be given the S.

MACL Program: HP (High Pass), PS (Pass), LP (Low Pass), F (Fail)

Non-Law Courses: Grades for these courses are not factored into the grade point average of law students. Most programs have customary grades such as A, A-, B+, etc. The School of Business Administration, however, uses the following guides: EX (Excellent), GD (Good), PS (Pass), LP (Low Pass) and F (Fail).

### Third Party Recipients

As a third party recipient of this transcript, you, your agents or employees are obligated by the Family Rights and Privacy Act of 1974 not to release this information to any other third party without the written consent of the student named on this Cumulative Grade Report and Academic Record.

### Official Copies

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The work reported on the reverse side of this transcript reflects work undertaken for credit as a University of Michigan law student. If the student attended other schools or colleges at the University of Michigan, a separate transcript may be requested from the University of Michigan, Office of the Registrar, Ann Arbor, Michigan 48109-1382.

Any questions concerning this transcript should be addressed to:

Office of Student Records  
University of Michigan Law School  
625 South State Street  
Ann Arbor, Michigan 48109-1215  
(734) 763-6499

Harriet Fischer  
California Women's Law Center  
360 North Pacific Coast Highway, Suite 2070  
El Segundo, CA 90245  
323-951-1041 / harriet.fischer@cwlc.org

May 1, 2023

Dear Judge,

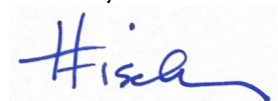
I am writing to enthusiastically recommend Michelle Wolk for a clerkship in your court.

Michelle is one of the best interns I have ever had the pleasure of supervising — she is bright, engaged, and a genuinely lovely person. In summer of 2022, Michelle was an intern at the California Women's Law Center, and I was constantly delighted by the quality of her work, her research and writing skills, her fluency with the issues at hand, and her flexibility of mind. Among other projects, Michelle drafted a white paper on telehealth in California, analyzing its status, its impact on women's health and reproductive access, and suggesting improvements to benefit women across the social spectrum. Her writing was clear and concise, her use of sources and citations impeccable, and she showed a thorough command of the issues along with a mature appreciation for her audience. Apart from the excellent paper she produced, I appreciated how eager she was for constructive input throughout the process and her receptivity to suggestions and comments from myself and others to improve her work. At the risk of sounding cliché, she is an absolute pleasure to work with.

Michelle seems to excel at everything she does, which is all the more remarkable considering the many things she is doing at any given time. She accepted assignments readily, volunteered to help whenever anyone was the least bit overburdened, and always went the extra mile because she is forward-thinking and anticipates the needs of the project and team as she works. While many students say they come to law school to make the world a better place, as a second-career attorney who was myself committed to public interest from the beginning, I am quite certain Michelle's passion for making a difference runs deep and is very, very real. In her quest to become the best attorney she can be, she has set her sights on a clerkship to further build her already-impressive skillset and add immeasurably to her experience and understanding of the legal landscape.

I am confident Michelle will be an asset to any judicial chambers. I recommend her without reservation and hope you have the opportunity to work with and mentor this delightful, impressive, and promising young woman. Please do not hesitate to contact me if you need any additional information.

Sincerely,



Harriet Fischer  
Staff Attorney

University of Michigan  
Law School

Leah Litman  
Professor of Law

June 06, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I'm delighted to write this letter of recommendation for Michelle Wolk, who has applied for a clerkship in your chambers. Michelle is one of the two best research assistants I have ever had, and I think she is going to be a terrific law clerk. She's naturally gifted at legal analysis but also an extremely hard worker. She's supremely easy to work with – professional, organized, and upbeat. I really hope you give her application close consideration; I think you will really enjoy working with her.

I'll start with Michelle's work as a research assistant, since I've worked with her on several different projects and she has done superb work on all of them– and it's the kind of work she would be doing in chambers. (I also taught Michelle in the first-year constitutional law class, which I will describe more below.)

Because of her interest in reproductive rights and justice, Michelle asked me to let her know about any research assistant opportunities that might be related to that topic. And so, in winter 2022, I asked her to work with me on amicus briefs for the Michigan House and Senate Democrats in the pre-*Dobbs* challenge to Michigan's pre-*Roe* criminal abortion ban. The work was difficult and demanding—it happened on an extremely condensed timeline (which happened to be during the *Law Review* write-on competition); and it required her to look into state constitutional history.

Michelle put together a memo within a week, and basically all of it went directly into the brief. I was honestly a little taken aback at just how good her work product was – it's well written; it's comprehensive; it's organized and methodical; and it's just plain smart. She was able to draw specific connections between the drafting history of the Michigan Constitution and language in different U.S. Supreme Court opinions about the nature of unenumerated rights and the method for determining them.

Michelle's work was so good that I began asking her whether she had any interest and time whenever I had reproductive justice-related work that summer and fall. And there was a lot of it. In addition to the first amicus brief, Michelle assisted me on a second amicus brief in the early summer; congressional testimony over the summer; a white paper on the Michigan constitutional amendment related to reproductive rights and justice in the fall; and an amicus brief in the fall about the state Board of Canvassers' certification of the reproductive justice amendment. Most of those projects, like the first one, required extremely quick timelines—the first amicus brief was on a *week*-long briefing schedule; the final amicus brief had to be put together over a holiday weekend. And every single time, Michelle managed to find the time to put together absolutely first-rate work – and again, on every single dimension. She's a strong, clear writer; she's really good at research; and she's just really smart and good at law. (The projects involved a mix of federal and state law; legislative history and constitutional convention records research; and a ton of case law/doctrinal work.)

She's so good that, by the time of the amicus brief that had a turnaround time of a weekend, I basically told the people who asked me to do it that I wanted to check to see whether Michelle was available to help before I could commit to doing the brief!

As that description suggests, I think the absolute world of Michelle's legal research and writing skills, as well as her analytical capabilities. She is easily one of the two best research assistants I have ever had in almost a decade as an academic at a variety of institutions (including Harvard, Stanford, and University of California, Irvine).

On more qualitative dimensions, Michelle is equally impressive. She is *really* professional despite being on the younger end of the spectrum for law students at Michigan. Michelle graduated early from college and began a full-time job at the organization where she had been working part time throughout college. It's obvious to me that she can juggle a ton on her plate. It's also clear that she's really gifted at legal analysis, because it's not like she's pulling a GPA that lands her around the top ten students in the class or doing all of this research for me because she's only doing those things. She did all of the research work for me while also gaining election to the *Law Review* and having responsibilities (beginning the second semester of her first year) on the *Michigan Journal of Gender and Law*. She is involved in a ton of activities at the law school. And having worked with her on programming and activities related to her role in the Women Law Student's Association, Women Also Know Law, as well as other organizations, I can attest to the fact that she seems to do all of those things well too. I think she must work like a beast to get everything done; at a minimum, it's clear she has excellent time management skills and a monster work ethic.

Michelle is also obviously well-liked by her peers. She's been selected for leadership roles in both journals and student organizations. She effectively supervised the other research assistants that helped me with the white paper on the Michigan constitutional amendment.

Leah Litman - [lmilman@umich.edu](mailto:lmilman@umich.edu) - 734-647-0549

As I noted earlier in the letter, I got to know Michelle when she was a student in my first-year constitutional law class. Michelle's class participation and interim assignment were top notch. (In addition to a final exam, I give students an interim assignment. I also call on a large number of students each class, and therefore end up talking to every student about once per week.) Her performance on the exam, however, was not quite as good. But it does not even begin to speak to her potential as a clerk. For one thing, Michelle ended up needing surgery toward the end of the semester, and it's hard to think that didn't end up affecting her exam performance somewhat. But more importantly, I've seen example after example of how Michelle does the kind of work that happens in chambers – legal research and writing and analysis that's not limited to a 4-hour exam. And when it comes to that, she's really great at it. Nothing in her exam evinced even the slightest misstep or misunderstanding. She just ended up with a middling grade because she didn't write enough about all of the issues. Plus, her grade in that class (mine) has been the aberration – since then she's earned all As and A+s.

I think Michelle will be a terrific law clerk, and I would hire her in a second. I served as a law clerk for two years after graduating, once on the U.S. Court of Appeals for the Sixth Circuit and once on the U.S. Supreme Court, and I am completely confident that Michelle has what it takes to succeed as a law clerk.

I would be delighted to speak with you further about her application. You can reach me by email ([lmilitman@umich.edu](mailto:lmilitman@umich.edu)), or by phone (my work phone is 734-647-0549, and my cell phone, which is probably a better bet, is 202-374-3231).

Thank you for considering Michelle's application.

Sincerely,

Leah Litman

Leah Litman - [lmilitman@umich.edu](mailto:lmilitman@umich.edu) - 734-647-0549

**UNIVERSITY OF MICHIGAN LAW**  
**Legal Practice Program**  
801 Monroe Street, 945 Legal Research  
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Kerry Kornblatt  
Clinical Assistant Professor of Law

May 30, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write in support of Michelle Wolk's clerkship application. Michelle was a student in my year-long Legal Practice class, which is Michigan's 1L legal research and writing course. I know Michelle's legal writing well and I am in a good position to speak to that and her other substantial strengths.

Michelle is a standout student—she was one of the top few students in my 20-person class and received a “high pass” in my class. (The class is graded on a modified pass/fail system; I am permitted to give a “high pass” to the four top-scoring students.) Although Michelle's work was strong from the beginning, her dedication to building her skills was evident. In her major first-semester assignment (the research memo), she scored in the top few in the class. Second semester, her major writing assignment (the trial brief) tied for the highest score in the class.

Before writing this letter, I reviewed Michelle's writing to confirm my memory of it. Michelle is an impressive legal writer. She has truly standout research skills. (In the trial brief assignment, she was able to find some on-point cases that her peers had not.) Her analysis is impressively thorough, and the final product is polished and proofread to a degree that I very rarely see in my students' work. In short, she was displaying law-clerk-level writing by the end of her 1L year. Her focus on developing her research and writing skills has clearly not let up after her time in my class. I was not at all surprised to learn that her brief writing was singled out for an award in the law school's competitive in-house moot court competition.

In addition to her standout qualities as a legal writer, Michelle is the kind of person who would bring added value to a judicial chambers. One look at her resume reveals that she is someone who is at the core of a few different areas of our law school community. As I know from interacting with her in some of those roles, she's skilled at working with a wide range of people. She's organized. She's professional.

For these reasons, I'm confident that Michelle will make a great clerk and I'm happy to recommend her. If I may be of any further assistance, please feel free to contact me.

Sincerely,

/Kerry Kornblatt/

Kerry Kornblatt  
Clinical Assistant Professor of Law

Kerry Kornblatt - [kkorn@umich.edu](mailto:kkorn@umich.edu)

**MICHIGAN LAW**  
UNIVERSITY OF MICHIGAN  
625 South State Street  
Ann Arbor, Michigan 48109-1215

June 07, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to recommend Michelle Wolk for a clerkship in your chambers. Michelle was a student of mine in Legislation and Regulation and is also serving as the principal editor of an article I am publishing with the Michigan Law Review. Michelle is extremely bright and a hard worker. I believe she will be an excellent clerk.

I first got to know Michelle when she was a student in my Fall 2022 Legislation and Regulation class. Michelle was a quiet student, but she performed very well when called on to answer questions. I could tell that she always came well prepared, having thoroughly thought through the issues before coming to class. And she showed a deftness with the doctrine that few students possess. Students like Michelle make my job in the classroom a lot easier.

Michelle wrote the second-highest scoring exam in her Leg Reg class, and she was very close to having written the best. My Fall 2022 exam was hard (indeed, in retrospect, I think it was probably too hard). But Michelle's answers stood out for their consistency and for Michelle's ability to cut to the heart of the matter. Michelle did particularly well on the final question of the exam, which involved an EPA determination to withdraw its decision to regulate a certain chemical. It was a difficult statutory interpretation question that pitted agencies' inherent power to change their minds against various statutory clues suggesting that once the EPA determined to regulate a chemical it had to follow through with that decision by promulgating binding regulations, at least for the five-year period following the determination. Michelle's answer hit all the bases—she discussed various canons of interpretation, the role of Chevron, and explored the possible absurdity that would arise from requiring the EPA to regulate a chemical it no longer felt posed a health threat. It represented, like the rest of Michelle's exam, a masterful job.

After Michelle was my student in Leg Reg, I had the opportunity to publish with the Michigan Law Review, where Michelle serves as an articles editor, and I was delighted when Michelle was assigned to be the editor on my piece. Publishing with a journal at your home institution is a bit tricky, and I told the editors that we were partners in the endeavor and that they shouldn't shy away from giving me edits where they felt things could be improved. I've now received one round of edits from Michelle, and they were of consistently high quality. She improved the writing of the piece as well as pushed me to clarify and make crisper certain claims I make in the article. As a former clerk myself I know that editing is an important part of the job, and I think Michelle will be very capable in that role.

In preparation for writing this letter I took a look at Michelle's writing sample, which is a brief she wrote for our Campbell Moot Court Competition. I was heavily involved in advising the students putting together this year's Campbell question, and I know the issues well. Michelle's brief is, in my view, quite strong. It clearly lays out the law and her client's position. It fits the pieces together nicely (something that was particularly difficult to do on the Seventh Amendment question). Each paragraph begins with a forceful but not over-the-top sentence designed to guide the reader along to the conclusion. Michelle is a very nice writer.

Michelle has a strong academic track record at Michigan Law, where she has taken a mix of courses that include both bread-and-butter subjects and some that are targeted to her particular interests. And Michelle has achieved that record while being a genuine leader among her cohort, serving in many different types of roles on journals and in student organizations, acting as a tutor, and giving her time to pro bono projects. Michelle has a longstanding interest in using the law to make the world a better place, and she is devoted to a career in public interest. I know that given Michelle's skills she will continue to succeed in whatever she chooses to pursue.

In sum, I recommend Michelle highly. Please let me know if I can be of any additional help. My email address is deacond@umich.edu, and my cellphone is (646) 943-3566. My office line, which is in the footer, works as well. I appreciate you considering Michelle for a clerkship.

Sincerely,

Daniel Deacon

Daniel Deacon - deacond@umich.edu - 734-764-5571

**Michelle Wolk**

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**Writing Sample**

I prepared this brief for the quarter-final round of the 98th Henry M. Campbell Moot Court Competition. I was assigned to write the brief on behalf of the petitioner. This brief is self-edited, and has not been edited by anyone else.

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IN THE

Supreme Court of the United States

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No. 22-0096

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H. B. SUTHERLAND BANK, N.A.,  
*Petitioner,*

v.

CONSUMER FINANCIAL PROTECTION BUREAU,  
*Respondent.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE TWELFTH CIRCUIT

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BRIEF FOR PETITIONER

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Michelle Wolk  
*Counsel of Record*

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## STATEMENT OF THE CASE

### A. Introduction

Petitioner H.B. Sutherland Bank, N.A. was denied its constitutionally mandated day in court. Instead, the Consumer Financial Protection Bureau played the role of judge, jury, and executioner, punishing Sutherland unilaterally. *H.B. Sutherland Bank, N.A. v. Consumer Fin. Prot. Bureau*, 505 F.4th 1, 2 (12th Cir. 2022). In so doing, the CFPB was acting pursuant to the Consumer Financial Protection Act of 2010. *Id.* at 4-5. In passing the CFPA, Congress infringed on the rights of those it is supposed to protect by creating a body that circumvents the constitutional safeguards designed to uphold due process and promote separation of powers. This encroachment cannot go unchecked.

First, Sutherland has a Seventh Amendment right to a jury trial because this case is analogous to the common-law claim of fraud and the relief sought here was legal, not equitable. The public rights exception does not mandate a different outcome, since this case is a matter of private rights, and even if it weren't, the exception does not apply to this case. Second, the dual-layer removal restrictions on the administrative law judge violate the separation-of-powers doctrine because they prevent the President from ensuring the laws are faithfully executed. In asking the Court to find otherwise, the CFPB deprives Sutherland of fair adjudication of its rights, deprives the American people of their constitutional right to serve on juries, deprives the President of his ability to take care that the laws are faithfully executed, and deprives the public of a democratically accountable figure for decisions pertaining to consumer protection.

### B. Statement of Facts

An established financial institution, Sutherland serves more than 11 million customers in the United States across 3,250 locations throughout the country. *Id.* at 3. Sutherland and its

subsidiaries provide retail banking, stock brokerage, insurance, and wealth management services to customers nationwide. *Id.* at 2-3. Sutherland is a registered national bank chartered and regulated by the Office of the Comptroller of the Currency. *Id.* at 3.

Created by Congress, the CFPB is an independent regulatory agency tasked with enforcing broad consumer protection provisions, including eighteen pre-existing statutes that regulate home finance, student loans, credit cards, and banking practices as well as a new prohibition on unfair, deceptive, or abusive acts and practices in the consumer-finance sector. *Id.* The CFPB was charged with “extensive” power to conduct investigations, issue subpoenas and civil investigative demands, initiate administrative adjudications, bring civil suits in federal court, and issue binding and enforceable decisions in administrative proceedings. *Id.* The Bureau has obtained billions in relief in the form of restitution, disgorgement, and civil penalties. *Id.* The Bureau is also authorized to provide injunctive relief. *Id.* The CFPB is led by a single Director, removable at the President’s will, and a singular ALJ presides over the Bureau’s adjudicative matters. *Id.* at 4. The ALJ is removable only for “good cause” by the Merit Systems Protection Board and MSPB members are removable by the President only for “inefficiency, neglect of duty, or malfeasance in office.” *Id.*

### C. Procedural History

In 2019, the CFPB initiated proceedings against Sutherland. *Id.* The merits of those proceedings are not on dispute. *Id.* After oral argument, the ALJ issued a Recommended Decision, consisting of both legal and factual findings. *Id.* The ALJ recommended that Sutherland be held liable for economic damages as well as a civil penalty in the amount of \$4,155,500. *Id.* at 4-5. Additionally, the ALJ recommended Sutherland be enjoined from offering a particular service to customers. *Id.* at 5. Sutherland appealed the decision to the Bureau’s Director, who subsequently upheld each of the ALJ’s findings, including the penalties. *Id.* At every stage of the appeal,

Sutherland raised the constitutional claims at issue here. *Id.* Sutherland filed a motion with the Director to stay her Final Order, which was denied. *Id.*

Sutherland filed a petition in the United States Court of Appeals for the Twelfth Circuit seeking to set aside the Director’s order. *Id.* at 5. A divided panel of the Twelfth Circuit affirmed the Director’s order. Sutherland petitioned the Court for a rehearing en banc, which was granted. Upon the rehearing, the Twelfth Circuit again found for the CFPB. Sutherland then filed a petition for writ of certiorari to the Supreme Court of the United States, which was granted.

## DISCUSSION

### I. PETITIONER IS ENTITLED TO A SEVENTH AMENDMENT TRIAL BY JURY

The right to a trial by jury “[i]n Suits at common law” is embedded in the United States Constitution as a cornerstone of our democracy. U.S. Const. amend. VII. For nearly two centuries, this Court has recognized that the trial by jury is “justly dear to the American people” and that “every encroachment upon it [should be] watched with great jealousy.” *Parsons v. Bedford*, 28 U.S. 433, 446 (1830). Even if jury trials “impede swift resolution of [the] proceedings and increase the expense,” such considerations are “insufficient to overcome the clear command of the Seventh Amendment.” *Granfinanciera v. Nordberg*, 492 U.S. 33, 63-64 (quoting *Curtis v. Loether*, 415 U.S. 189, 198 (1974)). Simply, efficiency does not supersede constitutional rights. Here, Sutherland’s rights were unjustly encroached. Sutherland was denied its day in court, and correspondingly, its trial by jury, in violation of the Seventh Amendment.

#### A. This Action is Sufficiently Analogous to a Suit at Common Law

The Seventh Amendment applies to any action analogous to suits brought in English law courts in 1791, and such an analogy is present here. *Parsons*, 28 U.S. at 447. Under the traditional test, courts determine whether a statutory action is analogous by examining the nature

of the action and the remedy sought. *Tull v. United States*, 481 U.S. 412, 417 (1987). In conducting this analysis, courts should recognize the fundamental nature of the right to trial by jury, and thus the analogy “should be liberally construed.” *Granfinanciera*, 492 U.S. at 48 (quoting *Schoenthal v. Irving Trust Co.*, 287 U.S. 92, 94 (1932)).

Applying such a liberal construction here, the unfair, deceptive or abusive acts and practices claim is closely analogous to common-law fraud. Both actions share several core elements, including materiality, reliance, omission or misrepresentation, and injury. *Sutherland*, 505 F. 4th at 26 (Cartwright, J., concurring). The Twelfth Circuit majority did not meaningfully apply this *Tull* test, skipping straight to the public rights exception. The concurrence, however, did apply the test, and concluded that there was no common law analog, because common-law fraud required intent and there is no intent requirement found within the cause of action at issue here. *Id.* at 24 (Cartwright, J., concurring). Nevertheless, whether the actions are identical or perfectly analogous is irrelevant. *Pernell v. Southhall Realty*, 416 U.S. 363, 375 (1974). Indeed, what matters is whether the subject matter or “essential function” of the action was “unheard of at common law,” not whether every single detail or element aligns. *Id.*; *Tull*, 481 U.S. at 421. No one disputes that fraud existed at common law.

Additionally, other courts have recognized that claims similar to the unfair, deceptive, or abusive acts and practices (UDAAP) prohibition are analogous to common-law fraud. *See Full Spectrum Software, Inc. v. Forte Automation Sys.*, 858 F.3d 666, 676 (1st Cir. 2017). There, the First Circuit evaluated a Massachusetts statute that prohibited “unfair or deceptive” practices and concluded that a claim for “deceptive” conduct was analogous to common-law fraud, deceit, or misrepresentation. *Id.* Because the deceptive part was analogous, the Court said the Seventh Amendment encompassed the claim, regardless of whether a claim for “unfair” conduct was also

analogous. *Id.* Importantly, this means that even if intent were required in order to find an analog, the UDAAP claim would *still* be analogous to a claim at common-law. This is because the intent requirement is implicit in the CFPA’s prohibition of “deceptive” activities. *Sutherland*, 505 F.4th at 31 (Bernhard, J., dissenting). Therefore, even though the listed definitions for “unfair” or “abusive” do not include an intent element, because deception is analogous, the entire claim would be analogous.

Furthermore, the nature of the action can be ascertained through an examination of the “nature of the underlying relationship between the parties.” *Chauffeurs, Teamsters & Helpers, Local No. 391 v. Terry*, 494 U.S. 558, 568 (1990). Here, the relationship in question is between a bank and its customers. Banks existed at common law too, and in fact, there was a “clear jurisprudential shift during the eighteenth century” in the approach towards fraud due to the fact that society was becoming “increasingly commercialised.” Cerian Charlotte Griffiths, *Prosecuting Fraud in the Metropolis, 1760-1820*, Univ. of Liverpool 3 (September 2017), [https://livrepository.liverpool.ac.uk/3012313/1/201042524\\_Sep2017.pdf](https://livrepository.liverpool.ac.uk/3012313/1/201042524_Sep2017.pdf). Even if the scope of the deceptive practice here is larger than the scope of deception seen at common law, the nature of the relationship is the same. Therefore, the UDAAP claim is sufficiently analogous to a claim at common law.

Moreover, the second part of the *Tull* test, characterizing the relief sought, is “more important” than whether the statutory action is precisely analogous to the common-law action. 481 U.S. at 420. Here, the relief consisted of monetary damages, a \$4.1 million civil penalty, and an injunction. Courts have consistently held that monetary damages are legal relief, not equitable. *See, e.g., Curtis v. Loether*, 415 U.S. 189, 197 (1974); *Terry*, 494 U.S. at 570-71. Similarly, courts have adamantly concluded that civil penalties are legal remedies. *Tull*, 481 U.S.

at 422. The *Tull* court held that the civil penalty there was legal, especially because it was not calculated solely on the basis of equitable restitutionary determinations, such as the profits gained from statutory violations, but simply imposed a maximum penalty of \$10,000 per day of violation for purposes of retribution and deterrence. *Id.* at 422-23. Similarly, the CFPB can seek civil penalties of up to \$1 million for each day that a violation occurs. 12 U.S.C. § 5565(c)(2)(C).

The Twelfth Circuit suggested that the civil penalty could not be a legal remedy, because it would render the money damages remedy redundant and statutes should be interpreted to avoid redundancy, if possible. *Sutherland*, 505 F.4th at 28 (Cartwright, J., concurring); *Gustafson v. Alloy Co.*, 513 U.S. 561, 574 (1995). However, the two remedies can both be legal without invoking redundancy concerns. The CFPB itself explains that there are key differences between the remedies, including “the link between who pays the money and who receives the money.” *Civil Penalty Fund*, CONSUMER FIN. PROT. BUREAU, <https://www.consumerfinance.gov/enforcement/payments-harmed-consumers/civil-penalty-fund/> (last visited Dec. 23, 2022). Therefore, the primary forms of relief here, the monetary damages, and civil penalty, were both legal, and the injunctive relief was merely incidental to those other forms of relief. *Tull*, 481 U.S. at 424-25. As such, the relief sought renders this case analogous to one at common law.

### **B. The Public Rights Exception Does Not Apply to This Action**

Under the public rights exception, Congress can fashion causes of action that are closely analogous to common-law claims and place them beyond the domain of the Seventh Amendment by assigning their resolution to a forum in which jury trials are unavailable. *Granfinanciera*, 492 U.S. at 52. This exception is normally invoked when analyzing whether Article III, rather than the Seventh Amendment, limits administrative adjudications. *Sutherland*, 505 F.4th at 7 n.2.

Even assuming that it would be appropriate to invoke the exception with respect to these Seventh Amendment considerations, this case is not about adjudicating public rights, rendering the exception inapplicable.

Just because the government is a party to this matter does not automatically render the matter a “public right.” *Jarkesy v. SEC*, 34 F.4th 446, 457-58 (5th Cir. 2022). “The identity of the parties alone” does not determine the requirements of Article III. *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 587 (1985). Just as in *Jarkesy*, where the matter was a private right since the hedge funds defrauded particular investors, here the bank was accused of defrauding particular customers. 34 F.4th at 458. This is not a matter intertwined with the performance of the functions of the executive department; rather, the CFPB is standing in for private plaintiffs. *Sutherland*, 505 F.4th at 34 (Bernhard, J., dissenting). Moreover, this is a case of private rights, because in addition to fraud, UDAAP can be analogized to misrepresentation. *See Full Spectrum Software, Inc.*, 858 F.3d at 676. Misrepresentation is “a classical tort action.” *In re Evangelist*, 760 F.2d 27, 32 (1st Cir. 1985). The public rights exception doesn’t apply to wholly tort actions. *Granfinanciera*, 492 U.S. at 51.

While the identity of the parties is not determinative, key attributes of the parties can impact whether a case is a public right. *Commodity Futures Trading Com. v. Schor*, 478 U.S. 833, 854 (1986). For example, whether the parties *choose* to invoke agency adjudication is relevant to whether the public rights exception applies. *Id.* Giving the parties a choice protects the jurisdiction of the federal judiciary, mitigating the separations of power concern otherwise associated with the public rights doctrine. *Id.* In *Schor*, both parties were willing to proceed via agency adjudication; the same cannot be said here. *Id.*

Additionally, the public rights exception extends only to cases that “arise between the Government and persons subject to its authority in connection with the performance of the constitutional functions of the executive or legislative departments.” *Crowell v. Benson*, 285 U.S. 22, 50 (1932). This means that it applies to matters which historically have been determined *exclusively* by the executive or legislative branches. *Stern v. Marshall*, 564 U.S. 462, 485 (2011). As such, the public rights exception allows Congress to devise “novel” causes of action free from the confines of the Seventh Amendment. *Granfinanciera*, 492 U.S. at 51. The matters adjudicated by the CFPB have not historically been left to branches other than the judiciary, and they are certainly not novel. The CFPB enforces eighteen pre-existing statutes, which prior to its creation, were litigated in the judiciary. *Sutherland*, 505 F.4th at 3. Aside from the pre-existing statutes, the CFPB does also enforce the prohibition on unfair, deceptive, or abusive acts and practices, but as previously explained, that claim is so analogous to common-law fraud that it can hardly be considered “novel.” Because Congress has taken these cases that have traditionally been tried in Article III courts and authorized a non-Article III forum of its own creation to decide them, “[t]he risk that Congress may improperly have encroached on the federal judiciary is obviously magnified.” *Schor*, 478 U.S. at 854 (quoting *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272, 284 (1856)).

Furthermore, Congress may assign the adjudication of public rights to an administrative agency if a jury trial would be “incompatible” with the statutory scheme. *Atlas Roofing v. OSHRC*, 430 U.S. 442, 455 (1977). Expounding on that, the public rights exception applies to cases in which “resolution of the claim by an expert Government agency is deemed *essential* to a limited regulatory objective within the agency’s authority.” *Stern*, 564 U.S. at 490 (emphasis added). Resolution of the claims by an administrative agency is certainly not essential to the

regulatory objective; if it were, Congress would not have also authorized the government to bring these claims before Article III courts. 12 U.S.C. § 5564. Since the statutory scheme itself authorizes the agency to bring enforcement actions in Article III courts, jury trials are not “incompatible” with the statutory scheme, and thus, would not “dismantle the statutory scheme.” *Jarkesy*, 34 F.4th at 455.

Therefore, because there is a common law analog, and because the public rights exception does not apply, the Seventh Amendment applies, meaning Sutherland was unconstitutionally denied its right to a jury trial.

## **II. THE ADMINISTRATIVE LAW JUDGE REMOVAL SCHEME IS UNCONSTITUTIONAL AND CONTRAVENES THE SEPARATION OF POWERS DOCTRINE**

This Court has emphatically and routinely recognized the fundamental nature of the President’s power to remove those who wield executive power on his behalf. *See Seila Law LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183, 2191-92 (2020). The ALJ wields executive power, and therefore, the removal restrictions on the ALJ contravene the separation of powers doctrine. While it is true that the nature of the ALJ’s role is quasi-judicial, this Court has recognized time and time again that executive officers may exercise “duties of a quasi-judicial character,” and that when that happens, the President must retain the ability to remove that official at will. *See Myers v. United States*, 272 U.S. 52, 135 (1926). Otherwise, the President cannot “discharge his own constitutional duty of seeing that the laws be faithfully executed.” *Id.* As an example, since 1804, the President has had the power to remove territorial judges at will, just as if they were executive officers. *Id.* at 155. This Court has upheld such exercises of the removal power, concluding that although the President may not remove Article III judges, he does indeed maintain his removal power when it comes to other judicial actors, such as territorial

judges. *Id.* at 155-57. Therefore, the quasi-judicial nature of the ALJ's role does not mean that the ALJ is not still wielding executive power.

Indeed, the ALJ does wield significant executive power. The Bureau's ALJ adjudicates matters and issues recommended decisions, consisting of both legal and factual findings. *Sutherland*, 505 F.4th at 4. Through these recommended decisions, the ALJ often serves executive functions by incorporating policy considerations into the decision. *See, e.g.*, Charles H. Koch, Jr., *Policymaking by the Administrative Judiciary*, 56 ALA. L. REV. 693, 694 (2005). Furthermore, there's no requirement that the Director substantively review these recommended decisions before signing off on them. 12 C.F.R. § 1081.402 (2022). If neither party appeals the matter, the Director is instructed to issue a final decision or to order further briefing, but the Director is not statutorily required to even read the recommended decision before making it final. *Id.* Thusly, the ALJ wields executive power.

However, regardless of whether the ALJ's role is of a judicial or executive nature is largely irrelevant. The separation of powers doctrine does not turn on the nature of an officer's functions. In recent cases, this Court has made clear that questions of removal do not hinge on whether the office is primarily considered to be executive, judicial, or legislative in nature. *See, e.g., Collins v. Yellen*, 141 S. Ct. 1761, 1784 (2021) (emphasizing that the nature of an agency's authority is not dispositive in answering questions of removal, because the separation of powers doctrine is implicated whenever an agency does "important work," regardless of that agency's role). Therefore, the President must have sole and illimitable removal power, unless one of two very specific exceptions apply. *Seila*, 140 S. Ct. at 2192.

The first exception, which very clearly does not apply here, is that Congress can create expert agencies led by a group of principal officers removable by the President only for good

cause. *Humphrey's Executor v. United States*, 295 U.S. 602 (1935). Here, the CFPB employs only one ALJ, so this is certainly not a matter of a group of officers. *Sutherland*, 505 F.4th at 37 (Bernhard, J., dissenting). Furthermore, this Court has already made clear that ALJs are inferior officers. *Lucia v. SEC*, 138 S. Ct. 2044 (2018). As such, both parties fully admit that the ALJ is an inferior officer, not a principal one. *Sutherland*, 505 F.4th at 15. Because this Court has declined to extend this exception to different configurations of officers, it is apparent that *Humphrey's Executor* cannot save the removal restrictions here. *Seila*, 140 S. Ct. at 2192.

**A. The *Morrison* Exception Does Not Apply Because the Removal Restriction Unduly Trammels the President's Power**

The second exception is also inapplicable here. While Congress may provide tenure protections to certain inferior officers with narrowly defined duties, the ALJ does not have such narrowly defined duties. *Morrison v. Olson*, 487 U.S. 654 (1988). Ultimately, there is no bright-line test for determining whether an officer's duties are sufficiently narrow, so the true question is whether the removal restriction "unduly trammels on executive authority." *Id.* at 691. Here, the removal restriction undoubtedly does. The President has a constitutional duty to "take care that the laws be faithfully executed." U.S. Const. art. II, § 3. His ability to do that here is "impermissibly burden[ed]." *Morrison*, 487 U.S. at 692.

The *Morrison* exception is more likely to apply if the officer has limited jurisdiction. *Id.* at 691. In *Morrison*, the officer at issue had limited jurisdiction, because she was only allowed to investigate certain federal officials for certain serious federal crimes, and only within the scope of jurisdiction granted to her by the Special Division pursuant to the request by the Attorney General. *Id.* at 672. The ALJ's jurisdiction, on the other hand, is much broader. Yes, the ALJ can only hear cases that the government chooses to bring before the adjudicative forum, but the Bureau can conduct adjudication proceedings with respect to "any person." 12 U.S.C. § 5563

(emphasis added). Unlike the independent counsel in *Morrison* who could only investigate certain officials, the Bureau can therefore investigate anyone. Additionally, the *Morrison* independent counsel could only investigate certain serious federal crimes, whereas the Bureau is allowed to enforce compliance with the Consumer Financial Protection Act of 2010 as well as other federal laws. *Id.* Importantly, the CFPB authorizes enforcement of eighteen federal consumer protection statutes, including provisions on home finance, student loans, credit cards, and banking practices. *Sutherland*, 505 F.4th at 3. There is no requirement that the Bureau only enforce these provisions in “serious” cases, and the breadth of these statutes demonstrates that the Bureau, and correspondingly, the ALJ has quite extensive jurisdiction. This is further demonstrated by the fact that the ALJ essentially has complete discretion and “all powers necessary” to conduct these proceedings. 12 C.F.R. § 1081.104 (2022).

Furthermore, the *Morrison* exception is also more likely to apply if the officer has limited tenure. *Morrison*, 487 U.S. at 691. In *Morrison*, the independent counsel’s tenure was limited by the “temporary” nature of the office, given that the office was to be terminated when the officer’s single task was accomplished. *Id.* at 672. Here, on the other hand, the ALJ’s tenure is not limited whatsoever. 5 U.S.C. § 7521. The ALJ’s job is not complete at the conclusion of a single adjudication. Rather, the ALJ’s job is continuous and ongoing. Therefore, it cannot be said that the ALJ has a limited tenure.

This Court has also previously weighed the authority wielded by the officer and other practical considerations in determining whether the *Morrison* exception should apply. *Morrison*, 487 U.S. at 691, 695-96. As previously discussed, the ALJ does indeed wield significant policymaking and administrative authority, making it less likely that the *Morrison* exception applies. Furthermore, other practical considerations warrant the same conclusion. For example,

this Court has emphatically shuddered at the thought of vesting significant power in a single non-democratically accountable individual. *See, e.g., Seila*, 140 S. Ct. at 2203. That is exactly what has happened here. Whereas most administrative agencies have multiple ALJs, the CFPB, in contrast, only has one. *ALJs by Agency*, U.S. OFF. OF PERS. MGMT., <https://www.opm.gov/services-for-agencies/administrative-law-judges/#url=ALJs-by-Agency> (last visited Dec. 22, 2022).

Ultimately, the ALJ’s broad jurisdiction, unlimited tenure, and significant authority coupled with other practical considerations make the case here very different from *Morrison*. Because this Court has previously refused to broaden the existing exceptions to situations not completely analogous, it is apparent that *Seila* is applicable here, and the President must have illimitable removal control. *Seila*, 140 S. Ct. at 2192. Without it, the President’s ability to take care that the laws are faithfully executed will be unduly trammelled.

#### **B. The Dual-Layer-For-Cause Removal Structure is Unconstitutional**

Additionally, the removal scheme further unduly trammels the President’s power due to its dual-layer-for-cause structure. *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477 (2010). In *Free Enterprise Fund*, this Court struck down dual-layer-for-cause removal schemes, concluding that granting an officer executive power without the Executive’s oversight “subverts the President’s ability to ensure that the laws are faithfully executed--as well as the public’s ability to pass judgment on his efforts.” 561 U.S. at 498. There, the government argued that the Board was required for its expertise and that the structure should therefore be allowed in order to create a “workable government.” *Id.* In response, this Court made clear that efficiency, convenience, and functionality cannot save a scheme contrary to the Constitution. *Id.* Nevertheless, the Twelfth Circuit upheld the adjudicative structure here based, in part, on those

same values. *Sutherland*, 505 F.4th at 12. The Twelfth Circuit also upheld the removal scheme, in part, because the Director can modify or set aside the ALJ’s conclusions, and the Director is removable at the President’s will. *Id.* at 19. However, this Court has rejected that argument as well, concluding that broad power over the office’s function is not equivalent to the power to remove the officer. *Free Enter. Fund*, 561 U.S. at 504.

Importantly, ALJs fall in the contours of the *Free Enterprise Fund* holding as they are “Officers of the United States” who exercise significant authority. 561 U.S. at 506; *Lucia*, 138 S. Ct. at 2055. The *Free Enterprise Fund* court noted, in dicta, that its holding did not address the “subset of independent agency *employees* who serve as administrative law judges.” 561 U.S. at 507 n.10 (emphasis added). This exclusion was because at the time, it was disputed as to whether ALJs were “Officers of the United States” or employees. *Id.* However, since *Free Enterprise Fund* was decided, this Court has very explicitly resolved that dispute and concluded that ALJs are indeed officers. *Lucia*, 138 S. Ct. at 2055. Therefore, the logic of *Free Enterprise Fund* should undoubtedly extend to ALJs as well.

If the dual-layer removal scheme were allowed to stand, the President would not be able to take action if the ALJ goes rogue and issues decisions inconsistent with the President’s policy agenda. If the CFPB Director allows the ALJ’s decisions to go into effect, the President’s only option would be to fire the Director, but the ALJ would remain in her role. If the CFPB Director consistently overrules the ALJ’s decisions because of such issues, then CFPB decisions would no longer be impartial and insulated from presidential policy — one of the key reasons to have the ALJ structure in the first place. *Sutherland*, 505 F.4th at 17. If the President wants the ALJ to be removed, at least two layers of for-cause protection stand in the President’s way. *Jarkesy*, 34 F.4th at 465. Plus, according to the Twelfth Circuit, the ALJ cannot be removed for failure to

follow policy choices. *Sutherland*, 505 F.4th at 18-19. Such a situation could easily cause great embarrassment to the President. *Myers*, 272 U.S. at 121. Thus, to ensure that the President can take care that the laws are faithfully executed, this dual-layer removal scheme cannot stand.

### CONCLUSION

Sutherland asks this Court to protect the American people from government overreach and to ensure that constitutional rights remain intact. To do so, the Court should recognize three key principles. First, the Seventh Amendment applies to claims with a common-law analog, which exists here. Second, the public rights exception does not apply to private rights nor to cases where the statutory scheme is indeed compatible with a jury trial. Third, dual-layer for-cause removal schemes unduly trammel the President's power and are unconstitutional. By reversing the Twelfth Circuit's opinion, this Court will preserve constitutional rights and ensure that everyone has access to their constitutionally mandated day in court.

**Applicant Details**

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**Applicant Education**

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Date of BA/BS	May 2021
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Journal(s)	First Amendment Law Review
Moot Court Experience	Yes
Moot Court Name(s)	Holderness Moot Court

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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

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12 June 2023

The Honorable Jamar K. Walker  
Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker:

I am a rising third-year law student at the University of North Carolina School of Law, where I am currently ranked 9th out of 213 students, and am writing to apply for the position as your law clerk beginning in August of 2024.

My past experiences have prepared me well for the work in your chambers. As an intern last summer to Justices Ervin and Berger, I had the opportunity to develop my research and writing skills while drafting memoranda for petitions for discretionary review, bench briefs, and opinions. This past Fall, I had the opportunity to practice those skills in my Appellate Advocacy course, Moot Court, and UNC's Supreme Court Program. Through the Supreme Court Program and as a Research Assistant to Professor Hessick, I helped draft an Amicus Brief in *Moore v. Harper* (No. 21-1271), defending the decision on the merits and urging the US Supreme Court to reject the Independent State Legislature Theory on Federalism grounds, and a petition for writ of certiorari in *Lomax v. United States* (No. 22-644), urging the court to reconsider deference to the commentary on the United States Sentencing Guidelines in light of recent precedent. In addition, I was able to familiarize myself with class action practice and multi-district litigation through my Complex Civil Litigation class and am enrolled in Federal Jurisdiction in the Fall of 2023.

Attached are my resume, unofficial transcript, writing sample, and recommendations. Thank you for your time and consideration.

Sincerely,



David Woodlief

## DAVID WOODLIEF

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### EDUCATION

University of North Carolina School of Law, Chapel Hill, NC

Juris Doctor, expected May 2024

GPA: 3.916 (Rank 9/213), Merit Scholarship Recipient

- Articles Editor, *First Amendment Law Review*, Vol. 22; Staff Member, Vol. 21
- Holderness Moot Court Appellate Advocacy Team, Fall 2022-Current
- Vice President, Christian Legal Society, Fall 2022-Spring 2023
- Treasurer, Christian Legal Society, Spring 2022
- Eugene Gressman & Daniel H Pollitt Oral Advocacy Award, Spring 2022

University of North Carolina, Chapel Hill, NC

Bachelor of Arts in Economics and Political Science, Minor: Religious Studies, May 2021

GPA: 3.815, with Highest Distinction; Phi Beta Kappa

- Pi Sigma Alpha (Political Science Honor Society)
- Staff Writer, *Carolina Political Review*, political and legal issues journal

### EXPERIENCE

Phelps Dunbar, LLP, Raleigh, NC

Summer Associate, July-August 2023

Alston & Bird, LLP, Raleigh, NC

Summer Associate, May-June 2023

Professor F. Andrew Hessick, University of North Carolina School of Law, Chapel Hill, NC

Research Assistant, Spring 2022

- Aided in preparing the petition for writ of certiorari in *United States v. Lomax*, 22-644
- Performed general research tasks

Hon. Phil Berger, Jr., Associate Justice, North Carolina Supreme Court, Raleigh, NC

Judicial Intern, June-July 2022

- Prepared bench briefs, a memo outlining the merits of a habeas petition, and an opinion
- First place in joint Supreme Court-Court of Appeals Moot Court Competition

Hon. Samuel J. Ervin, IV, Associate Justice, North Carolina Supreme Court, Raleigh, NC

Judicial Intern, May-June 2022

- Prepared memos outlining the merits of petitions for discretionary review and a bench brief
- Participated in the drafting of an opinion
- Discussed cases with Justice Ervin and clerks; observed oral arguments

Hon. L. Patrick Auld, Magistrate Judge, U.S. District Court (M.D.N.C.), Greensboro, NC

Shadowing, July 2021

- Researched the CDC eviction moratorium
- Observed court before Judge Auld and U.S. District Court Judges the Hon. Catherine C. Eagles, the Hon. N. Carlton Tilley, Jr., and the Hon. William L. Osteen, Jr.

### LANGUAGES, & INTERESTS

Languages: Low/Intermediate proficiency in Dutch, elementary proficiency in Biblical Hebrew and Sahidic Coptic

Interests: Fantasy and thriller fiction; a variety of podcasts; model building; Eagle Scout Troop 103



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## Unofficial Transcript

**Note to Employers from the Career Development Office:** Grades at the UNC School of Law are awarded in the form of letters (A, A-, B+, B-, C, etc.). Each letter grade is associated with a number (A = 4.0, A- = 3.7, B+ = 3.3, B = 3.0, etc.) for purposes of calculating a cumulative GPA. An A+ may be awarded in exceptional situations. For more information on the grading system, including the current class rank cutoffs, please contact the Career Development Office at (919) 962-8102 or visit our website at <https://law.unc.edu/careers/for-employers/grading-policy-faq/>

Student Name: David Woodlief

Cumulative GPA: 3.916

Course	Description	Term	Grade	Units
LAW 426	<a href="#">COMPLEX CIVIL LITIGATION</a>	2023 Spring	A	3.00
LAW 335	<a href="#">ADV TORTS: BUS TORTS/PROD LIAB</a>	2023 Spring	A	3.00
LAW 242	<a href="#">EVIDENCE</a>	2023 Spring	A	4.00
LAW 228	<a href="#">BUSI ASSOCIATIONS</a>	2023 Spring	A	4.00
LAW 563	<a href="#">APPELLATE ADV. COMPETITION LAB</a>	2023 Spring	PS	1.00
LAW 234F	<a href="#">FIRST AMENDMENT</a>	2022 Fall	A	3.00
LAW 336	<a href="#">APPELLATE ADVOCACY</a>	2022 Fall	A	3.00
LAW 311	<a href="#">SUPREME COURT PROGRAM</a>	2022 Fall	A	3.00
LAW 266	<a href="#">PROF RESPONSIBILITY</a>	2022 Fall	A	2.00
LAW 275	<a href="#">SECURED TRANSACTIONS</a>	2022 Fall	A	3.00
LAW 234A	<a href="#">CONSTITUTIONAL LAW</a>	2022 Spring	A	4.00
LAW 296	<a href="#">RES.REAS.WRIT.ADVOC II</a>	2022 Spring	A	3.00
LAW 205	<a href="#">CRIMINAL LAW</a>	2022 Spring	A	4.00
LAW 207	<a href="#">PROPERTY</a>	2022 Spring	A-	4.00